SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SECOND GENERAL ASSEMBLY

37TH LEGISLATIVE DAY

WEDNESDAY, MAY 9, 2001

12:00 O'CLOCK NOON

No. 37
[May 9, 2001]

The Senate met pursuant to adjournment.
Honorable James "Pate" Philip, Wood Dale, Illinois, presiding.
Prayer by Pastor Jonathan Grubbs, First Church of God, Springfield, Illinois.
Senator Radogno led the Senate in the Pledge of Allegiance.

Senator W. Jones moved that reading and approval of the Journal of Tuesday, May 8, 2001 be postponed pending arrival of the printed Journal.
The motion prevailed.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

The 2000 Annual Report submitted by the Department of Transportation.

The designation of The Pampered Chef, Ltd. as an Illinois High Impact Business submitted by the Department of Commerce and Community Affairs pursuant to 20 ILCS 655/5.5 (1999 Illinois Compiled Statutes), as amended, of the Illinois Enterprise Zone Act.

The Annual Report, The Status of Federal Block Grants in Illinois, FY 2001, submitted by the Advisory Committee on Block Grants, Illinois Commission on Intergovernmental Cooperation.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

LEGISLATIVE MEASURES FILED

The following floor amendments to the House Bills listed below have been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 1 to House Bill 512
Senate Amendment No. 1 to House Bill 2380

EXCUSED FROM ATTENDANCE

Senator Maitland was excused from attendance due to illness.

Senator Lightford was excused from attendance due to illness.

REPORTS FROM STANDING COMMITTEES

Senator Sieben, Chairperson of the Committee on Agriculture and Conservation to which was referred House Bills numbered 417 and 700 reported the same back with the recommendation that the bills do pass.
Under the rules, the bills were ordered to a second reading.

Senator Sieben, Chairperson of the Committee on Agriculture and Conservation to which was referred the following Senate floor amendment, reported that the Committee recommends that it be approved

for consideration:

Amendment No. 1 to House Bill 2528

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Rauschenberger, Chairperson of the Committee on Appropriations to which was referred **Senate Bills numbered 814, 1362, 1374, 1377, 1378, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1407, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1426, 1432, 1450, 1464, 1477, 1481 and 1484** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Rauschenberger, Chairperson of the Committee on Appropriations to which was referred **Senate Bills numbered 1353, 1363, 1375 and 1376** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Rauschenberger, Chairperson of the Committee on Appropriations to which was referred **House Bills numbered 2125, 2137, 3426, 3439, 3440, 3463, 3489 and 3490** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Cronin, Chairperson of the Committee on Education to which was referred **House Bills numbered 678, 1712, 1840, 2255, 2425 and 3566** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Cronin, Chairperson of the Committee on Education to which was referred **House Bills numbered 12, 1096, 1692, 3050, 3137 and 3192** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Cronin, Chairperson of the Committee on Education, to which was referred **Senate Joint Resolution No. 28** reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Joint Resolution 28** was placed on the Secretary's Desk.

Senator Mahar, Chairperson of the Committee on Environment and Energy to which was referred **House Bills numbered 356, 842, 1189, 2426, 2575, 2900, 3347 and 3373** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Mahar, Chairperson of the Committee on Environment and Energy to which was referred **House Bills numbered 1148 and 1887** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Hawkinson, Chairperson of the Committee on Judiciary to

which was referred **House Bills numbered 222, 452, 643, 888, 889, 2220, 2228, 2301, 2440, 2847, 3179, 3262 and 3284** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Hawkinson, Chairperson of the Committee on Judiciary to which was referred **House Bills numbered 231, 335, 445, 446, 789, 863, 1125, 1812, 2207, 2295, 2844, 2845, 3055 and 3314** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Parker, Chairperson of the Committee on Transportation to which was referred **House Bills numbered 39, 185, 579, 1709, 1904 and 3065** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Parker, Chairperson of the Committee on Transportation to which was referred **House Bills numbered 293, 1493 and 2254** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

A message from the House by
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 30

A bill for AN ACT to amend the Illinois Vehicle Code by changing Section 13B-45.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 30

Passed the House, as amended, May 8, 2001.
ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 30

AMENDMENT NO. 1. Amend Senate Bill 30 as follows:
by replacing the title with the following:
"AN ACT in relation to vehicles."; and
by replacing everything after the enacting clause with the following:
"Section 5. The Illinois Vehicle Code is amended by changing Sections 13B-25 and 13B-45 as follows:
(625 ILCS 5/13B-25)
Sec. 13B-25. Performance of inspections.
(a) The inspection of vehicles required under this Chapter shall be performed only: (i) by inspectors who have been certified by the Agency after successfully completing a course of training and successfully passing a written test; (ii) at official inspection stations or official on-road inspection sites established under this

Chapter; and (iii) with equipment that has been approved by the Agency for these inspections.

(b) Except as provided in subsections (c) and (d), the inspection shall consist of (i) a loaded mode exhaust gas analysis; (ii) an evaporative system integrity test; (iii) an on-board computer diagnostic system check; and (iv) a verification that all required emission-related recall repairs have been made under Title 40, Section 51.370 of the Code of Federal Regulations, and may also include an evaporative system purge test. The owner of the vehicle or the owner's agent shall be entitled to an emission inspection certificate issued by an inspector only if all required tests are passed at the time of the inspection.

(c) A steady-state idle exhaust gas analysis may be substituted for the loaded mode exhaust gas analysis and the evaporative purge system test in the following cases:

(1) On any vehicle of model year 1980 or older.

(2) On any heavy duty vehicle with a manufacturer gross vehicle weight rating in excess of 8,500 pounds.

(3) On any vehicle for which loaded mode testing is not possible due to vehicle design or configuration.

(d) If authorized by the United States Environmental Protection Agency with no or a minimal loss of emission reduction benefits and if authorized by rules that the Board or the Agency may adopt, the following procedures shall be followed on model year 1996 and newer vehicles equipped with OBDII on-board computer diagnostic equipment:

(1) The loaded mode exhaust gas analysis specified in subsection (b) of this Section shall not be performed on such vehicles for which the on-board computer diagnostic test specified in subsection (h) of this Section can be performed. All other elements of the inspection required for such vehicles shall be performed in accordance with the provisions of this Section.

(2) The on-board computer diagnostic test shall not be a required element of the inspection mandated by this Section for such vehicles for which on-board computer diagnostic testing is not possible due to the vehicle's originally certified design or its design as modified in accordance with federal law and regulations. In such cases, all other elements of the inspection required under this Section shall be performed on such vehicles, including the exhaust gas analysis as specified in subsection (b) of this Section. ~~A steady state idle gas analysis may also be substituted for the new procedures specified in subsection (b) in inspections conducted in calendar year 1995 on any vehicle of model year 1990 or older.~~

(e) The exhaust gas analysis shall consist of a test of an exhaust gas sample to determine whether the quantities of exhaust gas pollutants emitted by the vehicle meet the standards set for vehicles of that type under Section 13B-20. A vehicle shall be deemed to have passed this portion of the inspection if the evaluation of the exhaust gas sample indicates that the quantities of exhaust gas pollutants emitted by the vehicle do not exceed the standards set for vehicles of that type under Section 13B-20 or an inspector certifies that the vehicle qualifies for a waiver of the exhaust gas pollutant standards under Section 13B-30.

(f) The evaporative system integrity test shall consist of a procedure to determine if leaks exist in all or a portion of the vehicle fuel evaporation emission control system. A vehicle shall be deemed to have passed this test if it meets the criteria that the Board may adopt for an evaporative system integrity test.

(g) The evaporative system purge test shall consist of a procedure to verify the purging of vapors stored in the evaporative

canister. A vehicle shall be deemed to have passed this test if it meets the criteria that the Board may adopt for an evaporative system purge test.

(h) The on-board computer diagnostic test shall consist of accessing the vehicle's on-board computer system, if so equipped, and reading any stored diagnostic codes that may be present. The vehicle shall be deemed to have passed this test if the codes observed did not exceed standards set for vehicles of that type under Section 13B-20.

(Source: P.A. 90-475, eff. 8-17-97.)

(625 ILCS 5/13B-45)

Sec. 13B-45. Contracts.

(a) The Agency may enter into contracts with one or more responsible parties to construct and operate official inspection stations, provide and maintain approved test equipment, administer tests, certify results, issue emission inspection stickers or certificates, maintain records, train personnel, or provide information to the public concerning the program.

These contracts (i) shall be subject to the Illinois Purchasing Act, (ii) may be for a term of up to 9 years, (iii) shall be in writing, and (iv) shall not take effect until a copy of the contract is filed with the State Comptroller.

(b) In preparing its proposals for bidding by potential contractors, the Agency shall endeavor to include provisions relating to the following factors:

(1) The demonstrated financial responsibility of the potential contractor.

(2) The specialized experience and technical competence of the potential contractor in connection with the type of services required and the complexity of the project.

(3) The potential contractor's past record of performance on contracts with the Agency, with other government agencies or public bodies, and with private industry, including such items as cost, quality of work, and ability to meet schedules.

(4) The capacity of the potential contractor to perform the work within the time limitations.

(5) The familiarity of the potential contractor with the types of problems applicable to the project.

(6) The potential contractor's proposed method to accomplish the work required including, where appropriate, any demonstrated capability of exploring and developing innovative or advanced techniques and methods.

(7) Avoidance of personal and organizational conflicts of interest prohibited under federal, State, or local law.

(8) The potential contractor's present and prior involvement in the community and in the State of Illinois.

(c) Any contract for the operation of one or more official inspection stations shall include a provision that the contractor shall not perform emission-related repairs or adjustments to vehicles, other than to the contractor's own vehicles, necessary to enable vehicles to pass Illinois emission inspections.

(d) If a vehicle is damaged by the contractor in performing the emission inspection, the owner of the vehicle may bring a civil action against the contractor in the circuit court of the county in which the inspection occurred in accordance with the provisions of the Illinois Code of Civil Procedure.

(Source: P.A. 88-533.)

Section 99. Effective date. This Act takes effect upon becoming law.".

[May 9, 2001]

Under the rules, the foregoing **Senate Bill No. 30**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 390
A bill for AN ACT in relation to health care surrogates.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:
House Amendment No. 1 to SENATE BILL NO. 390

Passed the House, as amended, May 8, 2001.
ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 390
AMENDMENT NO. 1. Amend Senate Bill 390 on page 1, line 22, after the period, by inserting the following:
"No person shall be liable for civil damages or subject to professional discipline based on a claim of violating a patient's right to confidentiality as a result of making a reasonable inquiry as to the availability of a patient's family member or health care agent, except for willful or wanton misconduct.".

Under the rules, the foregoing **Senate Bill No. 390**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 487
A bill for AN ACT concerning schools.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:
House Amendment No. 1 to SENATE BILL NO. 487

Passed the House, as amended, May 8, 2001.
ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 487
AMENDMENT NO. 1. Amend Senate Bill 487 as follows:
on page 3, immediately below line 31, by inserting the following:
"In the case of a sale of property to a tenant that has leased the property for 10 or more years and that is a non-profit agency, an appraisal is required prior to the sale. If the non-profit agency purchases the property for less than the appraised value and subsequently sells the property, the agency may retain only a percentage of the profits that is proportional to the percentage of the appraisal, plus any improvements made by the agency while the agency was the owner, that the agency paid in the initial sale. The

remaining portion of the profits made by the non-profit agency shall revert to the school district."; and

on page 6, immediately below line 13, by inserting the following:

"In the case of a sale of property to a tenant that has leased the property for 10 or more years and that is a non-profit agency, an appraisal is required prior to the sale. If the non-profit agency purchases the property for less than the appraised value and subsequently sells the property, the agency may retain only a percentage of the profits that is proportional to the percentage of the appraisal, plus any improvements made by the agency while the agency was the owner, that the agency paid in the initial sale. The remaining portion of the profits made by the non-profit agency shall revert to the school district.".

Under the rules, the foregoing **Senate Bill No. 487**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 727

A bill for AN ACT in relation to vehicles.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 727

Passed the House, as amended, May 8, 2001.

ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 727

AMENDMENT NO. 1. Amend Senate Bill 727 on page 5, by replacing lines 7 through 24 with the following:

"(e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based upon a violation of this Section or a similar provision of a local ordinance, the person shall be required to undergo an evaluation by a program licensed by the Department of Human Services to determine if an alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem. Programs conducting these evaluations shall be licensed by the Department of Human Services. The person shall be required to complete the program's recommendation for intervention in accordance with the rules adopted by the Department of Human Services unless otherwise ordered by the court. The cost of any such evaluation or compliance with any intervention recommendation shall be paid for by the person, subject to rules governing indigents as provided for by the Department of Human Services. ~~After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based upon an arrest for a violation of this Section or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem. Programs conducting these evaluations shall be licensed by the Department of Human Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional evaluation.~~".

[May 9, 2001]

Under the rules, the foregoing **Senate Bill No. 727**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 800
A bill for AN ACT concerning highways.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:
House Amendment No. 1 to SENATE BILL NO. 800

Passed the House, as amended, May 8, 2001.
ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 800
AMENDMENT NO. 1. Amend Senate Bill 800 as follows:
on page 5, line 27, by replacing "50% ~~10%~~" with "10%".

Under the rules, the foregoing **Senate Bill No. 800**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1065
A bill for AN ACT concerning firearms.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:
House Amendment No. 1 to SENATE BILL NO. 1065

Passed the House, as amended, May 8, 2001.
ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1065
AMENDMENT NO. 1. Amend Senate Bill 1065 as follows:
by replacing everything after the enacting clause with the following:
"Section 5. The Firearm Owners Identification Card Act is amended by changing Sections 3, 4, 6, 10, and 14 as follows:
(430 ILCS 65/3) (from Ch. 38, par. 83-3)
Sec. 3. (a) Except as provided in Section 3a, no person ~~within this State~~ may knowingly transfer, or cause to be transferred, any firearm or any firearm ammunition to any person within this State unless the transferee with whom he deals displays a currently valid Firearm Owner's Identification Card which has previously been issued in his name by the Department of State Police under the provisions of this Act. In addition, all firearm transfers by federally licensed firearm dealers are subject to Section 3.1.
(b) Any person within this State who transfers or causes to be transferred any firearm shall keep a record of such transfer for a

period of 10 years from the date of transfer. Such record shall contain the date of the transfer; the description, serial number or other information identifying the firearm if no serial number is available; and, if the transfer was completed within this State, the transferee's Firearm Owner's Identification Card number. On demand of a peace officer such transferor shall produce for inspection such record of transfer.

(c) The provisions of this Section regarding the transfer of firearm ammunition shall not apply to those persons specified in paragraph (b) of Section 2 of this Act.

(Source: P.A. 87-299.)

(430 ILCS 65/4) (from Ch. 38, par. 83-4)

Sec. 4. (a) Each applicant for a Firearm Owner's Identification Card must:

(1) Make application on blank forms prepared and furnished at convenient locations throughout the State by the Department of State Police, or by electronic means, if and when made available by the Department of State Police; and

(2) Submit evidence ~~under--penalty--of--perjury~~ to the Department of State Police that:

(i) He or she is 21 years of age or over, or if he or she is under 21 years of age that he or she has the written consent of his or her parent or legal guardian to possess and acquire firearms and firearm ammunition and that he or she has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card and files an affidavit with the Department as prescribed by the Department stating that he or she is not an individual prohibited from having a Card;

(ii) He or she has not been convicted of a felony under the laws of this or any other jurisdiction;

(iii) He or she is not addicted to narcotics;

(iv) He or she has not been a patient in a mental institution within the past 5 years;

(v) He or she is not mentally retarded;

(vi) He or she is not an alien who is unlawfully present in the United States under the laws of the United States;

(vii) He or she is not subject to an existing order of protection prohibiting him or her from possessing a firearm;

(viii) He or she has not been convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed;

(ix) He or she has not been convicted of domestic battery or a substantially similar offense in another jurisdiction committed on or after the effective date of this amendatory Act of 1997; and

(x) He or she has not been convicted within the past 5 years of domestic battery or a substantially similar offense in another jurisdiction committed before the effective date of this amendatory Act of 1997; and

(3) Upon request by the Department of State Police, sign a release on a form prescribed by the Department of State Police waiving any right to confidentiality and requesting the disclosure to the Department of State Police of limited mental health institution admission information from another state, the

District of Columbia, any other territory of the United States, or a foreign nation concerning the applicant for the sole purpose of determining whether the applicant is or was a patient in a mental health institution and disqualified because of that status from receiving a Firearm Owner's Identification Card. No mental health care or treatment records may be requested. The information received shall be destroyed within one year of receipt.

(a-5) Each applicant for a Firearm Owner's Identification Card who is over the age of 18 shall furnish to the Department of State Police either his or her driver's license number or Illinois Identification Card number.

(b) Each application form shall include the following statement printed in bold type: "Warning: Entering false information on an application for a Firearm Owner's Identification Card is punishable as a Class 2 felony in accordance with subsection (d-5) of Section 14 of the Firearm Owners Identification Card Act. ~~False statements of the applicant shall result in prosecution for perjury in accordance with Section 32-2 of the Criminal Code of 1961.~~".

(c) Upon such written consent, pursuant to Section 4, paragraph (a) (2) (i), the parent or legal guardian giving the consent shall be liable for any damages resulting from the applicant's use of firearms or firearm ammunition.

(Source: P.A. 90-493, eff. 1-1-98; 91-514, eff. 1-1-00; 91-694, eff. 4-13-00.)

(430 ILCS 65/6) (from Ch. 38, par. 83-6)

Sec. 6. Contents of Firearm Owner's Identification Card.

(a) A Firearm Owner's Identification Card, issued by the Department of State Police at such places as the Director of the Department shall specify, shall contain the applicant's name, residence, date of birth, sex, physical description, recent photograph and signature ~~such other personal identifying information as may be required by the Director~~. Each Firearm Owner's Identification Card must have the expiration date boldly and conspicuously displayed on the face of the card. Each Firearm Owner's Identification Card must have printed on it the following: "CAUTION - This card does not permit bearer to UNLAWFULLY carry or use firearms." Before December 1, 2002, the Department may use a person's digital photograph and signature from his or her Illinois driver's license or Illinois Identification Card, if available. On and after December 1, 2002, the Department shall use a person's digital photograph and signature from his or her Illinois driver's license or Illinois Identification Card, if available. The Department shall decline to use a person's digital photograph or signature if the digital photograph or signature is the result of or associated with fraudulent or erroneous data, unless otherwise provided by law.

(b) A person applying for a Firearm Owner's Identification Card shall consent to the Department of State Police using the applicant's digital driver's license or Illinois Identification Card photograph, if available, and signature on the applicant's Firearm Owner's Identification Card. The Secretary of State shall allow the Department of State Police access to the photograph and signature for the purpose of identifying the applicant and issuing to the applicant a Firearm Owner's Identification Card.

(c) The Secretary of State shall conduct a study to determine the cost and feasibility of creating a method of adding an identifiable code, background, or other means on the driver's license or Illinois Identification Card to show that an individual is not disqualified from owning or possessing a firearm under State or

federal law. The Secretary shall report the findings of this study 12 months after the effective date of this amendatory Act of the 92nd General Assembly.

(Source: P.A. 91-694, eff. 4-13-00.)

(430 ILCS 65/10) (from Ch. 38, par. 83-10)

Sec. 10. (a) Whenever an application for a Firearm Owner's Identification Card is denied, whenever the Department fails to act on an application within 30 days of its receipt, or whenever such a Card is revoked or seized as provided for in Section 8 of this Act, the aggrieved party may appeal to the Director of the Department of State Police for a hearing upon such denial, revocation or seizure, unless the denial, revocation, or seizure was based upon a forcible felony, stalking, aggravated stalking, domestic battery, any violation of either the Illinois Controlled Substances Act or the Cannabis Control Act that is classified as a Class 2 or greater felony, or any felony violation of Article 24 of the Criminal Code of 1961, in which case the aggrieved party may petition the circuit court in writing in the county of his or her residence for a hearing upon such denial, revocation, or seizure.

(b) At least 30 days before any hearing in the circuit court, the petitioner shall serve the relevant State's Attorney with a copy of the petition. The State's Attorney may object to the petition and present evidence. At the hearing the court shall determine whether substantial justice has been done. Should the court determine that substantial justice has not been done, the court shall issue an order directing the Department of State Police to issue a Card. ~~Whenever, upon the receipt of such an appeal for a hearing, the Director is satisfied that substantial justice has not been done, he may order a hearing to be held by the Department upon the denial or revocation.~~

(c) Any person prohibited from possessing a firearm under Sections 24-1.1 or 24-3.1 of the Criminal Code of 1961 or acquiring a Firearm Owner's Identification Card under Section 8 of this Act may apply to the Director of the Department of State Police or petition the circuit court in the county where the petitioner resides, whichever is applicable in accordance with subsection (a) of this Section, requesting relief from such prohibition and the Director or court may grant such relief if it is established by the applicant to the court's or Director's satisfaction that:

(0.05) when in the circuit court, the State's Attorney has been served with a written copy of the petition at least 30 days before any such hearing in the circuit court and at the hearing the State's Attorney was afforded an opportunity to present evidence and object to the petition;

(1) the applicant has not been convicted of a forcible felony under the laws of this State or any other jurisdiction within 20 years of the applicant's application for a Firearm Owner's Identification Card, or at least 20 years have passed since the end of any period of imprisonment imposed in relation to that conviction;~~,~~

(2) the circumstances regarding a criminal conviction, where applicable, the applicant's criminal history and his reputation are such that the applicant will not be likely to act in a manner dangerous to public safety; and

(3) granting relief would not be contrary to the public interest.

(Source: P.A. 85-920.)

(430 ILCS 65/14) (from Ch. 38, par. 83-14)

Sec. 14. Sentence.

(a) A violation of paragraph (1) of subsection (a) of Section 2, when the person's Firearm Owner's Identification Card is expired but

the person is not otherwise disqualified from renewing the card, is a Class A misdemeanor.

(b) Except as provided in subsection (a) with respect to an expired card, a violation of paragraph (1) of subsection (a) of Section 2 is a Class A misdemeanor when the person does not possess a currently valid Firearm Owner's Identification Card, but is otherwise eligible under this Act. A second or subsequent violation is a Class 4 felony.

(c) A violation of paragraph (1) of subsection (a) of Section 2 is a Class 3 felony when:

(1) the person's Firearm Owner's Identification Card is revoked or subject to revocation under Section 8; or

(2) the person's Firearm Owner's Identification Card is expired and not otherwise eligible for renewal under this Act; or

(3) the person does not possess a currently valid Firearm Owner's Identification Card, and the person is not otherwise eligible under this Act.

(d) A violation of subsection (a) of Section 3 is a Class 4 felony. A third or subsequent conviction is a Class 1 felony.

(d-5) Any person who knowingly enters false information on an application for a Firearm Owner's Identification Card, who knowingly gives a false answer to any question on the application, or who knowingly submits false evidence in connection with an application is guilty of a Class 2 felony.

(e) Any other violation of this Act is a Class A misdemeanor.

(Source: P.A. 91-694, eff. 4-13-00.)

Section 10. The Code of Criminal Procedure of 1963 is amended by changing Section 110-10 as follows:

(725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

Sec. 110-10. Conditions of bail bond.

(a) If a person is released prior to conviction, either upon payment of bail security or on his or her own recognizance, the conditions of the bail bond shall be that he or she will:

(1) Appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court;

(2) Submit himself or herself to the orders and process of the court;

(3) Not depart this State without leave of the court;

(4) Not violate any criminal statute of any jurisdiction;

(5) At a time and place designated by the court, surrender all firearms in his or her possession to a law enforcement officer designated by the court to take custody of and impound the firearms and physically surrender his or her Firearm Owner's Identification Card to the clerk of the circuit court when the offense the person has been charged with is a forcible felony, stalking, aggravated stalking, domestic battery, any violation of either the Illinois Controlled Substances Act or the Cannabis Control Act that is classified as a Class 2 or greater felony, or any felony violation of Article 24 of the Criminal Code of 1961; the court may, however, forgo the imposition of this condition when the circumstances of the case clearly do not warrant it or when its imposition would be impractical; all legally possessed firearms shall be returned to the person upon that person completing a sentence for a conviction on a misdemeanor domestic battery, upon the charges being dismissed, or if the person is found not guilty, unless the finding of not guilty is by reason of insanity; and

(6) At a time and place designated by the court, submit to a psychological evaluation when the person has been charged with

a violation of item (4) of subsection (a) of Section 24-1 of the Criminal Code of 1961 and that violation occurred in a school or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school.

Psychological evaluations ordered pursuant to this Section shall be completed promptly and made available to the State, the defendant, and the court. As a further condition of bail under these circumstances, the court shall order the defendant to refrain from entering upon the property of the school, including any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school. Upon receipt of the psychological evaluation, either the State or the defendant may request a change in the conditions of bail, pursuant to Section 110-6 of this Code. The court may change the conditions of bail to include a requirement that the defendant follow the recommendations of the psychological evaluation, including undergoing psychiatric treatment. The conclusions of the psychological evaluation and any statements elicited from the defendant during its administration are not admissible as evidence of guilt during the course of any trial on the charged offense, unless the defendant places his or her mental competency in issue.

(b) The court may impose other conditions, such as the following, if the court finds that such conditions are reasonably necessary to assure the defendant's appearance in court, protect the public from the defendant, or prevent the defendant's unlawful interference with the orderly administration of justice:

(1) Report to or appear in person before such person or agency as the court may direct;

(2) Refrain from possessing a firearm or other dangerous weapon;

(3) Refrain from approaching or communicating with particular persons or classes of persons;

(4) Refrain from going to certain described geographical areas or premises;

(5) Refrain from engaging in certain activities or indulging in intoxicating liquors or in certain drugs;

(6) Undergo treatment for drug addiction or alcoholism;

(7) Undergo medical or psychiatric treatment;

(8) Work or pursue a course of study or vocational training;

(9) Attend or reside in a facility designated by the court;

(10) Support his or her dependents;

(11) If a minor resides with his or her parents or in a foster home, attend school, attend a non-residential program for youths, and contribute to his or her own support at home or in a foster home;

(12) Observe any curfew ordered by the court;

(13) Remain in the custody of such designated person or organization agreeing to supervise his release. Such third party custodian shall be responsible for notifying the court if the defendant fails to observe the conditions of release which the custodian has agreed to monitor, and shall be subject to contempt of court for failure so to notify the court;

(14) Be placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with or without the use of an approved electronic monitoring device

subject to Article 8A of Chapter V of the Unified Code of Corrections;

(14.1) The court shall impose upon a defendant who is charged with any alcohol, cannabis or controlled substance violation and is placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with the use of an approved monitoring device, as a condition of such bail bond, a fee that represents costs incidental to the electronic monitoring for each day of such bail supervision ordered by the court, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code;

(14.2) The court shall impose upon all defendants, including those defendants subject to paragraph (14.1) above, placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with the use of an approved monitoring device, as a condition of such bail bond, a fee which shall represent costs incidental to such electronic monitoring for each day of such bail supervision ordered by the court, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be;

(15) Comply with the terms and conditions of an order of protection issued by the court under the Illinois Domestic Violence Act of 1986 or an order of protection issued by the court of another state, tribe, or United States territory;

(16) Under Section 110-6.5 comply with the conditions of the drug testing program; and

(17) Such other reasonable conditions as the court may impose.

(c) When a person is charged with an offense under Section 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961", involving a victim who is a minor under 18 years of age living in the same household with the defendant at the time of the offense, in granting bail or releasing the defendant on his own recognizance, the judge shall impose conditions to restrict the defendant's access to the victim which may include, but are not limited to conditions that he will:

1. Vacate the Household.

2. Make payment of temporary support to his dependents.

3. Refrain from contact or communication with the child victim, except as ordered by the court.

(d) When a person is charged with a criminal offense and the victim is a family or household member as defined in Article 112A, conditions shall be imposed at the time of the defendant's release on bond that restrict the defendant's access to the victim. Unless provided otherwise by the court, the restrictions shall include requirements that the defendant do the following:

(1) refrain from contact or communication with the victim for a minimum period of 72 hours following the defendant's release; and

(2) refrain from entering or remaining at the victim's residence for a minimum period of 72 hours following the defendant's release.

(e) Local law enforcement agencies shall develop standardized bond forms for use in cases involving family or household members as defined in Article 112A, including specific conditions of bond as provided in subsection (d). Failure of any law enforcement department to develop or use those forms shall in no way limit the applicability and enforcement of subsections (d) and (f).

(f) If the defendant is admitted to bail after conviction the conditions of the bail bond shall be that he will, in addition to the conditions set forth in subsections (a) and (b) hereof:

(1) Duly prosecute his appeal;

(2) Appear at such time and place as the court may direct;

(3) Not depart this State without leave of the court;

(4) Comply with such other reasonable conditions as the court may impose; and,

(5) If the judgment is affirmed or the cause reversed and remanded for a new trial, forthwith surrender to the officer from whose custody he was bailed.

(g) Upon a finding of guilty for any felony offense, the defendant shall physically surrender, at a time and place designated by the court, any and all firearms in his or her possession and his or her Firearm Owner's Identification Card as a condition of remaining on bond pending sentencing.

(Source: P.A. 90-399, eff. 1-1-98; 91-11, eff. 6-4-99; 91-312, eff. 1-1-00; 91-696, eff. 4-13-00; 91-903, eff. 1-1-01.)

Section 15. The Unified Code of Corrections is amended by changing Section 5-6-3 as follows:

(730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

Sec. 5-6-3. Conditions of Probation and of Conditional Discharge.

(a) The conditions of probation and of conditional discharge shall be that the person:

(1) not violate any criminal statute of any jurisdiction;

(2) report to or appear in person before such person or agency as directed by the court;

(3) refrain from possessing a firearm or other dangerous weapon;

(4) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer;

(5) permit the probation officer to visit him at his home or elsewhere to the extent necessary to discharge his duties;

(6) perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located within the municipality or county in which the

violation occurred. When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and has not been previously convicted of a misdemeanor or felony, may be required by the sentencing court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. This clause (7) does not apply to a person who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program; ~~and~~

(8) if convicted of possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court<u>; and</u>~~.~~

<u>(9) if convicted of a felony, physically surrender at a time and place designated by the court, his or her Firearm Owner's Identification Card and any and all firearms in his or her possession.</u>

(b) The Court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the Court require that the person:

(1) serve a term of periodic imprisonment under Article 7 for a period not to exceed that specified in paragraph (d) of Section 5-7-1;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home;

(8) make restitution as provided in Section 5-5-6 of this Code;

(9) perform some reasonable public or community service;

(10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:

(i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;

(ii) admit any person or agent designated by the court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and

(iii) if further deemed necessary by the court or the Probation or Court Services Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;

(iv) for persons convicted of any alcohol, cannabis or controlled substance violation who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the offender to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code; and

(v) for persons convicted of offenses other than those referenced in clause (iv) above and who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended, or an order of protection issued by the court of another state, tribe, or United States territory. A copy of the order of protection shall be transmitted to the probation officer or agency having responsibility for the case;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer, if the defendant has been placed on probation or advance approval by the court, if the defendant was placed on conditional discharge;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act or the Illinois Controlled Substances Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug.

(c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of age found guilty of any alcohol, cannabis or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If such person is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(d) An offender sentenced to probation or to conditional discharge shall be given a certificate setting forth the conditions thereof.

(e) The court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2.

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

(f) The court may combine a sentence of periodic imprisonment under Article 7 or a sentence to a county impact incarceration program under Article 8 with a sentence of probation or conditional discharge.

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses

related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts, or to another state under an Interstate Probation Reciprocal Agreement as provided in Section 3-3-11. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge after January 1, 1992, as a condition of such probation or conditional discharge, a fee of $25 for each month of probation or conditional discharge supervision ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon an offender who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.
(Source: P.A. 90-14, eff. 7-1-97; 90-399, eff. 1-1-98; 90-504, eff. 1-1-98; 90-655, eff. 7-30-98; 91-325, eff. 7-29-99; 91-696, eff. 4-13-00; 91-903, eff. 1-1-01.)

Section 99. Effective date. This Act takes effect upon becoming law.".

Under the rules, the foregoing **Senate Bill No. 1065**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1080

A bill for AN ACT in relation to criminal law.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the

Senate, to-wit:
House Amendment No. 1 to SENATE BILL NO. 1080

Passed the House, as amended, May 8, 2001.
ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1080
AMENDMENT NO. 1. Amend Senate Bill 1080 as follows:
on page 2, line 3, by deleting "12-15,"; and
on page 3, line 1, by deleting "12-15,".

Under the rules, the foregoing **Senate Bill No. 1080**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1517
A bill for AN ACT concerning the Department of Corrections.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:
House Amendment No. 1 to SENATE BILL NO. 1517

Passed the House, as amended, May 8, 2001.
ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1517
AMENDMENT NO. 1. Amend Senate Bill 1517 as follows:
on page 2, by replacing lines 4 through 8 with the following:
"pilot program shall require the pupillometer technology to be used in at least one Department of Corrections facility. The Director may expand the pilot program to include an additional facility or facilities as he or she deems appropriate. A minimum of 4,000 tests shall be included in the pilot program. The Department must report to the General Assembly on the effectiveness of the program by January 1, 2003.".

Under the rules, the foregoing **Senate Bill No. 1517**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO 133
A bill for AN ACT in relation to limited liability companies.
SENATE BILL NO 233
A bill for AN ACT concerning criminal law.
SENATE BILL NO 286
A bill for AN ACT concerning the Department of Public Health.
SENATE BILL NO 289
A bill for AN ACT concerning the regulation of professions.

SENATE BILL NO 318
A bill for AN ACT concerning the regulation of professions.
SENATE BILL NO 325
A bill for AN ACT relating to schools.
SENATE BILL NO 394
A bill for AN ACT concerning environmental protection.
SENATE BILL NO 403
A bill for AN ACT in relation to vehicles.
SENATE BILL NO 405
A bill for AN ACT concerning agriculture.
SENATE BILL NO 434
A bill for AN ACT in relation to mental health.

Passed the House, May 8, 2001.
ANTHONY D. ROSSI, Clerk of the House

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO 500
A bill for AN ACT in relation to senior citizens.
SENATE BILL NO 534
A bill for AN ACT concerning hearing instruments.
SENATE BILL NO 635
A bill for AN ACT regarding libraries.
SENATE BILL NO 686
A bill for AN ACT in relation to criminal law.
SENATE BILL NO 721
A bill for AN ACT concerning civil procedure.
SENATE BILL NO 817
A bill for AN ACT in relation to public aid.
SENATE BILL NO 867
A bill for AN ACT concerning insurance.
SENATE BILL NO 938
A bill for AN ACT in relation to domestic violence.
SENATE BILL NO 1017
A bill for AN ACT concerning emergency services.
SENATE BILL NO 1046
A bill for AN ACT in relation to property.

Passed the House, May 8, 2001.
ANTHONY D. ROSSI, Clerk of the House

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO 510
A bill for AN ACT in relation to vehicles.
SENATE BILL NO 1081
A bill for AN ACT regarding child care.
SENATE BILL NO 1166
A bill for AN ACT concerning real estate.

Passed the House, May 8, 2001.

[May 9, 2001]

ANTHONY D. ROSSI, Clerk of the House

At the hour of 12:20 o'clock p.m., Senator Dudycz presiding.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 135

Offered by Senator Shaw and all Senators:
Mourns the death of Dolton Police Chief Howard "Pat" Patterson.

SENATE RESOLUTION NO. 136

Offered by Senators E. Jones - Smith and all Senators:
Mourns the death of Gladys Wright of Chicago.

The foregoing resolutions were referred to the Resolutions Consent Calendar.

At the hour of 12:25 o'clock p.m., Senator Karpiel presiding.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 2834, sponsored by Senator Hendon was taken up, read by title a first time and referred to the Committee on Rules.

MESSAGE FROM THE GOVERNOR

A Message for the Governor by Michael P. Madigan
Director, Legislative Affairs

May 9, 2001

Mr. President,

The Governor directs me to lay before the Senate the Following Message:

STATE OF ILLINOIS
EXECUTIVE DEPARTMENT

To The Honorable
Members of the Senate
Illinois General Assembly:

I have nominated and appointed the following named persons to the offices enumerated below and respectfully ask concurrence in and confirmation of these appointments of your Honorable Body:

DEPARTMENT OF EMPLOYMENT SECURITY REVIEW BOARD

To be members of the Department of Employment Security Review Board for terms ending January 20, 2003:

Michael G. Breslan of Chicago
Salaried

Stanley L. Drassler, Jr. of Kankakee
Salaried

Rolland W. Lewis of Mt. Vernon
Salaried

William J. Nolan of Chicago
Salaried

Jon R. Walker of Moro
Salaried

DEPARTMENT OF LABOR

To be the Superintendent of Safety Inspection and Education in the Department of Labor for a term ending January 20, 2003:

John William Bastert of Bolingbrook
Salaried

DEPARTMENT OF PUBLIC AID

To be the Inspector General in the Department of Public Aid for a term ending January 17, 2005:

Robb Miller of Springfield
Salaried

HUMAN RIGHTS COMMISSION

To be a member of the Human Rights Commission for a term ending January 17, 2005:

James A. Maloof of Peoria
Salaried

PRISONER REVIEW BOARD

To be a member of the Prisoner Review Board for a term ending January 20, 2003:

Susan Carol Finley of Mattoon
Salaried

To be a member of the Prisoner Review Board for a term ending January 15, 2007:

Victor E. Brooks of Batavia
Salaried

PROPERTY TAX APPEAL BOARD

To be a member of the Property Tax Appeal Board for a term ending January 15, 2007:

Sharon U. Thompson of Dixon
Salaried

STATE MINING BOARD

[May 9, 2001]

To be members of the State Mining Board for terms ending January 20, 2003:

Thomas J. Austin of Springfield
Salaried

Timothy J. Mitacek of Harrisburg
Salaried

Richard W. Mottershaw of Carlinville
Salaried

Robert L. Pate of Harrisburg
Salaried

Carl Michael Whitten of Hillsboro
Salaried

J. Scott Williams of West Frankfort
Salaried

BOARD OF HIGHER EDUCATION

To be members of the Board of Higher Education for terms ending January 31, 2007:

Robert J. English of Aurora
Non-Salaried

James L. Kaplan of Lincolnshire
Non-Salaried

Lucy A. Sloan of Herrin
Non-Salaried

BOARD OF TRUSTEES EASTERN ILLINOIS UNIVERSITY

To be a member of the Eastern Illinois University Board of Trustees for a term ending January 17, 2005:

Robert C. Manion of Hinsdale
Non-Salaried

To be a member of the Eastern Illinois University Board of Trustees for a term ending January 15, 2007:

Juliette I. Nimmons of Litchfield
Non-Salaried

BOARD OF TRUSTEES NORTHEASTERN ILLINOIS UNIVERSITY

To be members of the Northeastern Illinois University Board of Trustees for terms ending January 15, 2007:

Carole Balzekas of Chicago
Non-Salaried

Nancy J. Masterson of Barrington
Non-Salaried

BOARD OF TRUSTEES SOUTHERN ILLINOIS UNIVERSITY

To be a member of the Southern Illinois University Board of Trustees for a term ending January 17, 2005:

Mark L. Repking of Godfrey
Non-Salaried

To be members of the Southern Illinois University Board of Trustees for terms ending January 15, 2007:

Molly D'Esposito of Winnetka
Non-Salaried

Ed Hightower of Edwardsville
Non-Salaried

Harris Rowe of Jacksonville
Non-Salaried

BOARD OF TRUSTEES UNIVERSITY OF ILLINOIS

To be a member of the University of Illinois Board of Trustees for a term ending January 8, 2007:

Marjorie E. Sodemann of Champaign
Non-Salaried

COMPREHENSIVE HEALTH INSURANCE PLAN

To be members of the Comprehensive Health Insurance Plan for terms ending July 1, 2003:

Sharon K. Heaton of Graymont
Non-Salaried

Richard F. Kotz of Glencoe
Non-Salaried

Johanna M. Lund of Rockford
Non-Salaried

Saul J. Morse of Springfield
Non-Salaried

Robert E. Schaaf of Springfield
Non-Salaried

EAST ST. LOUIS FINANCIAL ADVISORY AUTHORITY

To be a member of the East St. Louis Financial Advisory Authority for a term ending August 30, 2002:

Jerome Jackson of East St. Louis
Non-Salaried

EDUCATION FUNDING ADVISORY BOARD

To be members of the Education Funding Advisory Board for terms ending January 17, 2005:

[May 9, 2001]

Dean E. Clark of Glen Ellyn
Non-Salaried

Anne D. Davis of Harvey
Non-Salaried

ILLINOIS GAMING BOARD

To be a member of the Illinois Gaming Board
for a term ending July 1, 2003:

Ira Rogal of Glenview
Non-Salaried

ILLINOIS HEALTH FACILITIES PLANNING BOARD

To be a member of the Illinois Health Facilities
Planning Board for a term ending June 30, 2001:

Michael W. Gonzalez of Chicago
Non-Salaried

To be a member of the Illinois Health Facilities
Planning Board for a term ending June 30, 2002:

Richard W. Wright of East Peoria
Non-Salaried

To be members of the Illinois Health Facilities
Planning Board for terms ending June 30, 2004:

Michael W. Gonzalez of Chicago
Non-Salaried

Bernard Weiner of Bourbonnais
Non-Salaried

ILLINOIS SPORTS FACILITIES AUTHORITY

To be members of the Illinois Sports Facilities
Authority for terms ending June 30, 2003:

Joel G. Herter of Elmhurst
Non-Salaried

Alexander R. Lerner of Glencoe
Non-Salaried

ILLINOIS STATE MUSEUM BOARD

To be members of the Illinois State Museum Board
for terms ending January 15, 2003:

Gerald W. Adelmann of Lockport
Non-Salaried

L. Jessica Jagielnik of Chicago
Non-Salaried

Tony Leone of Springfield

Non-Salaried

Mary Ann S. MacLean of Libertyville
Non-Salaried

MID-AMERICA INTERMODAL AUTHORITY PORT DISTRICT BOARD

To be a members of the Mid-America Intermodal Authority Port District Board for a term ending June 1, 2006:

Merritt W. Sprague of Hull
Non-Salaried

STATE BANKING BOARD OF ILLINOIS

To be members of the State Banking Board of Illinois for terms ending December 31, 2004:

Joy French Becker of Jacksonville
Non-Salaried

A. Dean Decker of Erie
Non-Salaried

Mark G. Field of Liberty
Non-Salaried

STATE BOARD OF EDUCATION

To be a member of the State Board of Education for a term ending January 10, 2007:

Majorie B. Branch of Chicago
Non-Salaried

STATE BOARD OF INVESTMENT

To be a member of the State Board of Investment for a term ending January 20, 2003:

Susan Lynn McKeever of Chicago
Non-Salaried

STATE POLICE MERIT BOARD

To be a member of the State Police Merit Board for a term ending March 19, 2007:

Kenneth A. Schloemer of Moline
Non-Salaried

STATE SOIL AND WATER CONSERVATION ADVISORY BOARD

To be a member of the State Soil and Water Conservation Advisory Board for a term ending January 17, 2005:

Alan Worrell of Jacksonville
Non-Salaried

[May 9, 2001]

Under the rules, the foregoing Message was referred to the Committee on Executive Appointments.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Myers, **House Bill No. 27** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Local Government, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 27 by replacing the title with the following:

"AN ACT concerning local government."; and

by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by changing Sections 5-1121 and 5-12017 as follows:

(55 ILCS 5/5-1121)

Sec. 5-1121. Demolition, repair, or enclosure.

(a) The county board of each county may demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the territory of the county, but outside the territory of any municipality, and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those buildings. If a township within the county makes a formal request to the county board as provided in Section 85-50 of the Township Code that the county board commence specified proceedings under this Section with respect to property located within the township but outside the territory of any municipality, then, at the next regular county board meeting occurring at least 10 days after the formal request is made to the county board, the county board shall either commence the requested proceedings or decline to do so (either formally or by failing to act on the request) and shall notify the township board making the request of the county board's decision. In any county having adopted, by referendum or otherwise, a county health department as provided by Division 5-25 of the Counties Code or its predecessor, the county board of any such county may upon a formal request by the city, village, or incorporated town demolish, repair or cause the demolition or repair of dangerous and unsafe buildings or uncompleted and abandoned buildings within the territory of any city, village, or incorporated town having a population of less than 50,000.

The county board shall apply to the circuit court of the county in which the building is located (i) for an order authorizing action to be taken with respect to a building if the owner or owners of the building, including the lien holders of record, after at least 15 days' written notice by mail to do so, have failed to commence proceedings to put the building in a safe condition or to demolish it or (ii) for an order requiring the owner or owners of record to demolish, repair, or enclose the building or to remove garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from the building. It is not a defense to the cause of action that the building is boarded up or otherwise enclosed, although the court may order the defendant to have the building boarded up or otherwise enclosed. Where, upon diligent search, the identity or whereabouts of the owner or owners of the building,

including the lien holders of record, is not ascertainable, notice mailed to the person or persons in whose name the real estate was last assessed and the posting of such notice upon the premises sought to be demolished or repaired is sufficient notice under this Section.

The hearing upon the application to the circuit court shall be expedited by the court and shall be given precedence over all other suits.

The cost of the demolition, repair, enclosure, or removal incurred by the county, by an intervenor, or by a lien holder of record, including court costs, attorney's fees, and other costs related to the enforcement of this Section, is recoverable from the owner or owners of the real estate or the previous owner or both if the property was transferred during the 15 day notice period and is a lien on the real estate; the lien is superior to all prior existing liens and encumbrances, except taxes, if, within 180 days after the repair, demolition, enclosure, or removal, the county, the lien holder of record, or the intervenor who incurred the cost and expense shall file a notice of lien for the cost and expense incurred in the office of the recorder in the county in which the real estate is located or in the office of the registrar of titles of the county if the real estate affected is registered under the Registered Titles (Torrens) Act.

The notice must consist of a sworn statement setting out (1) a description of the real estate sufficient for its identification, (2) the amount of money representing the cost and expense incurred, and (3) the date or dates when the cost and expense was incurred by the county, the lien holder of record, or the intervenor. Upon payment of the cost and expense by the owner of or persons interested in the property after the notice of lien has been filed, the lien shall be released by the county, the person in whose name the lien has been filed, or the assignee of the lien, and the release may be filed of record as in the case of filing notice of lien. Unless the lien is enforced under subsection (b), the lien may be enforced by foreclosure proceedings as in the case of mortgage foreclosures under Article XV of the Code of Civil Procedure or mechanics' lien foreclosures. An action to foreclose this lien may be commenced at any time after the date of filing of the notice of lien. The costs of foreclosure incurred by the county, including court costs, reasonable attorney's fees, advances to preserve the property, and other costs related to the enforcement of this subsection, plus statutory interest, are a lien on the real estate and are recoverable by the county from the owner or owners of the real estate.

All liens arising under this subsection (a) shall be assignable. The assignee of the lien shall have the same power to enforce the lien as the assigning party, except that the lien may not be enforced under subsection (b).

If the appropriate official of any county determines that any dangerous and unsafe building or uncompleted and abandoned building within its territory fulfills the requirements for an action by the county under the Abandoned Housing Rehabilitation Act, the county may petition under that Act in a proceeding brought under this subsection.

(b) In any case where a county has obtained a lien under subsection (a), the county may enforce the lien under this subsection (b) in the same proceeding in which the lien is authorized.

A county desiring to enforce a lien under this subsection (b) shall petition the court to retain jurisdiction for foreclosure proceedings under this subsection. Notice of the petition shall be served, by certified or registered mail, on all persons who were served notice under subsection (a). The court shall conduct a

hearing on the petition not less than 15 days after the notice is served. If the court determines that the requirements of this subsection (b) have been satisfied, it shall grant the petition and retain jurisdiction over the matter until the foreclosure proceeding is completed. The costs of foreclosure incurred by the county, including court costs, reasonable attorneys' fees, advances to preserve the property, and other costs related to the enforcement of this subsection, plus statutory interest, are a lien on the real estate and are recoverable by the county from the owner or owners of the real estate. If the court denies the petition, the county may enforce the lien in a separate action as provided in subsection (a).

All persons designated in Section 15-1501 of the Code of Civil Procedure as necessary parties in a mortgage foreclosure action shall be joined as parties before issuance of an order of foreclosure. Persons designated in Section 15-1501 of the Code of Civil Procedure as permissible parties may also be joined as parties in the action.

The provisions of Article XV of the Code of Civil Procedure applicable to mortgage foreclosures shall apply to the foreclosure of a lien under this subsection (b), except to the extent that those provisions are inconsistent with this subsection. For purposes of foreclosures of liens under this subsection, however, the redemption period described in subsection (b) of Section 15-1603 of the Code of Civil Procedure shall end 60 days after the date of entry of the order of foreclosure.

(c) In addition to any other remedy provided by law, the county board of any county may petition the circuit court to have property declared abandoned under this subsection (c) if:

(1) the property has been tax delinquent for 2 or more years or bills for water service for the property have been outstanding for 2 or more years;

(2) the property is unoccupied by persons legally in possession; and

(3) the property contains a dangerous or unsafe building.

All persons having an interest of record in the property, including tax purchasers and beneficial owners of any Illinois land trust having title to the property, shall be named as defendants in the petition and shall be served with process. In addition, service shall be had under Section 2-206 of the Code of Civil Procedure as in other cases affecting property.

The county, however, may proceed under this subsection in a proceeding brought under subsection (a). Notice of the petition shall be served by certified or registered mail on all persons who were served notice under subsection (a).

If the county proves that the conditions described in this subsection exist and the owner of record of the property does not enter an appearance in the action, or, if title to the property is held by an Illinois land trust, if neither the owner of record nor the owner of the beneficial interest of the trust enters an appearance, the court shall declare the property abandoned.

If that determination is made, notice shall be sent by certified or registered mail to all persons having an interest of record in the property, including tax purchasers and beneficial owners of any Illinois land trust having title to the property, stating that title to the property will be transferred to the county unless, within 30 days of the notice, the owner of record enters an appearance in the action, or unless any other person having an interest in the property files with the court a request to demolish the dangerous or unsafe building or to put the building in safe condition.

If the owner of record enters an appearance in the action within the 30 day period, the court shall vacate its order declaring the

property abandoned. In that case, the county may amend its complaint in order to initiate proceedings under subsection (a).

If a request to demolish or repair the building is filed within the 30 day period, the court shall grant permission to the requesting party to demolish the building within 30 days or to restore the building to safe condition within 60 days after the request is granted. An extension of that period for up to 60 additional days may be given for good cause. If more than one person with an interest in the property files a timely request, preference shall be given to the person with the lien or other interest of the highest priority.

If the requesting party proves to the court that the building has been demolished or put in a safe condition within the period of time granted by the court, the court shall issue a quitclaim judicial deed for the property to the requesting party, conveying only the interest of the owner of record, upon proof of payment to the county of all costs incurred by the county in connection with the action, including but not limited to court costs, attorney's fees, administrative costs, the costs, if any, associated with building enclosure or removal, and receiver's certificates. The interest in the property so conveyed shall be subject to all liens and encumbrances on the property. In addition, if the interest is conveyed to a person holding a certificate of purchase for the property under the Property Tax Code, the conveyance shall be subject to the rights of redemption of all persons entitled to redeem under that Act, including the original owner of record.

If no person with an interest in the property files a timely request or if the requesting party fails to demolish the building or put the building in safe condition within the time specified by the court, the county may petition the court to issue a judicial deed for the property to the county. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, including tax liens.

(d) Each county may use the provisions of this subsection to expedite the removal of certain buildings that are a continuing hazard to the community in which they are located.

If a residential building is 2 stories or less in height as defined by the county's building code, and the official designated to be in charge of enforcing the county's building code determines that the building is open and vacant and an immediate and continuing hazard to the community in which the building is located, then the official shall be authorized to post a notice not less than 2 feet by 2 feet in size on the front of the building. The notice shall be dated as of the date of the posting and shall state that unless the building is demolished, repaired, or enclosed, and unless any garbage, debris, and other hazardous, noxious, or unhealthy substances or materials are removed so that an immediate and continuing hazard to the community no longer exists, then the building may be demolished, repaired, or enclosed, or any garbage, debris, and other hazardous, noxious, or unhealthy substances or materials may be removed, by the county.

Not later than 30 days following the posting of the notice, the county shall do both of the following:

(1) Cause to be sent, by certified mail, return receipt requested, a notice to all owners of record of the property, the beneficial owners of any Illinois land trust having title to the property, and all lienholders of record in the property, stating the intent of the county to demolish, repair, or enclose the building or remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials if that action is

not taken by the owner or owners.

(2) Cause to be published, in a newspaper published or circulated in the county where the building is located, a notice setting forth (i) the permanent tax index number and the address of the building, (ii) a statement that the property is open and vacant and constitutes an immediate and continuing hazard to the community, and (iii) a statement that the county intends to demolish, repair, or enclose the building or remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials if the owner or owners or lienholders of record fail to do so. This notice shall be published for 3 consecutive days.

A person objecting to the proposed actions of the county board may file his or her objection in an appropriate form in a court of competent jurisdiction.

If the building is not demolished, repaired, or enclosed, or the garbage, debris, or other hazardous, noxious, or unhealthy substances or materials are not removed, within 30 days of mailing the notice to the owners of record, the beneficial owners of any Illinois land trust having title to the property, and all lienholders of record in the property, or within 30 days of the last day of publication of the notice, whichever is later, the county board shall have the power to demolish, repair, or enclose the building or to remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials.

The county may proceed to demolish, repair, or enclose a building or remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials under this subsection within a 120-day period following the date of the mailing of the notice if the appropriate official determines that the demolition, repair, enclosure, or removal of any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials is necessary to remedy the immediate and continuing hazard. If, however, before the county proceeds with any of the actions authorized by this subsection, any person has sought a hearing under this subsection before a court and has served a copy of the complaint on the chief executive officer of the county, then the county shall not proceed with the demolition, repair, enclosure, or removal of garbage, debris, or other substances until the court determines that that action is necessary to remedy the hazard and issues an order authorizing the county to do so.

Following the demolition, repair, or enclosure of a building, or the removal of garbage, debris, or other hazardous, noxious, or unhealthy substances or materials under this subsection, the county may file a notice of lien against the real estate for the cost of the demolition, repair, enclosure, or removal within 180 days after the repair, demolition, enclosure, or removal occurred, for the cost and expense incurred, in the office of the recorder in the county in which the real estate is located or in the office of the registrar of titles of the county if the real estate affected is registered under the Registered Titles (Torrens) Act. The notice of lien shall consist of a sworn statement setting forth (i) a description of the real estate, such as the address or other description of the property, sufficient for its identification; (ii) the expenses incurred by the county in undertaking the remedial actions authorized under this subsection; (iii) the date or dates the expenses were incurred by the county; (iv) a statement by the official responsible for enforcing the building code that the building was open and vacant and constituted an immediate and continuing hazard to the community; (v) a statement by the official that the required sign was posted on the building, that notice was sent by certified mail to the owners of record, and that notice was published in accordance with this

subsection; and (vi) a statement as to when and where the notice was published. The lien authorized by this subsection may thereafter be released or enforced by the county as provided in subsection (a).

(e) In any case where a county has obtained a lien under subsection (a), the county may also bring an action for a money judgment against the owner or owners of the real estate in the amount of the lien in the same manner as provided for bringing causes of action in Article II of the Code of Civil Procedure and, upon obtaining a judgment, file a judgment lien against all of the real estate of the owner or owners and enforce that lien as provided for in Article XII of the Code of Civil Procedure.

(Source: P.A. 90-14, eff. 7-1-97; 90-517, eff. 8-22-97; 91-533, eff. 8-13-99; 91-561, eff. 1-1-00.)

(55 ILCS 5/5-12017) (from Ch. 34, par. 5-12017)

Sec. 5-12017. Violations. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Division or of any ordinance, resolution or other regulation made under authority conferred thereby, the proper authorities of the county <u>or of the township in which the building, structure, or land is located</u>, or any person the value or use of whose property is or may be affected by such violation, in addition to other remedies, may institute any appropriate action or proceedings in the circuit court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business, or use in or about such premises.

Any person who violates the terms of any ordinance adopted under the authority of this Division shall be guilty of a petty offense punishable by a fine not to exceed $500, with each week the violation remains uncorrected constituting a separate offense.

(Source: P.A. 86-962.)

Section 10. The Township Code is amended by adding Section 85-50 as follows:

(60 ILCS 1/85-50 new)

<u>Sec. 85-50. Demolition, repair, or enclosure of buildings.</u>

<u>(a) The township board of any township may formally request the county board to commence specified proceedings with respect to property located within the township but outside the territory of any municipality as provided in Section 5-1121 of the Counties Code. If the county board declines the request as provided in Section 5-1121 of the Counties Code, the township may exercise its powers under this Section.</u>

<u>(b) The township board of each township may demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the territory of the township and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those buildings.</u>

<u>The township board shall apply to the circuit court of the county in which the building is located (i) for an order authorizing action to be taken with respect to a building if the owner or owners of the building, including the lien holders of record, after at least 15 days' written notice by mail to do so, have failed to commence proceedings to put the building in a safe condition or to demolish it or (ii) for an order requiring the owner or owners of record to demolish, repair, or enclose the building or to remove garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from the building. It is not a defense to the cause of</u>

action that the building is boarded up or otherwise enclosed, although the court may order the defendant to have the building boarded up or otherwise enclosed. Where, upon diligent search, the identity or whereabouts of the owner or owners of the building, including the lien holders of record, is not ascertainable, notice mailed to the person or persons in whose name the real estate was last assessed and the posting of the notice upon the premises sought to be demolished or repaired is sufficient notice under this Section.

The hearing upon the application to the circuit court shall be expedited by the court and shall be given precedence over all other suits.

The cost of the demolition, repair, enclosure, or removal incurred by the township, by an intervenor, or by a lien holder of record, including court costs, attorney's fees, and other costs related to the enforcement of this Section, is recoverable from the owner or owners of the real estate or the previous owner or both if the property was transferred during the 15-day notice period and is a lien on the real estate if, within 180 days after the repair, demolition, enclosure, or removal, the township, the lien holder of record, or the intervenor who incurred the cost and expense shall file a notice of lien for the cost and expense incurred in the office of the recorder in the county in which the real estate is located or in the office of the registrar of titles of the county if the real estate affected is registered under the Registered Titles (Torrens) Act. The lien becomes effective at the time of filing.

The notice must consist of a sworn statement setting out (1) a description of the real estate sufficient for its identification, (2) the amount of money representing the cost and expense incurred, and (3) the date or dates when the cost and expense was incurred by the township, the lien holder of record, or the intervenor. Upon payment of the cost and expense by the owner of or persons interested in the property after the notice of lien has been filed, the lien shall be released by the township, the person in whose name the lien has been filed, or the assignee of the lien, and the release may be filed of record as in the case of filing notice of lien. Unless the lien is enforced under subsection (c), the lien may be enforced by foreclosure proceedings as in the case of mortgage foreclosures under Article XV of the Code of Civil Procedure or mechanics' lien foreclosures. An action to foreclose this lien may be commenced at any time after the date of filing of the notice of lien. The costs of foreclosure incurred by the township, including court costs, reasonable attorney's fees, advances to preserve the property, and other costs related to the enforcement of this subsection, plus statutory interest, are a lien on the real estate and are recoverable by the township from the owner or owners of the real estate.

All liens arising under this subsection (b) shall be assignable. The assignee of the lien shall have the same power to enforce the lien as the assigning party, except that the lien may not be enforced under subsection (c).

(c) In any case where a township has obtained a lien under subsection (b), the township may enforce the lien under this subsection (c) in the same proceeding in which the lien is authorized.

A township desiring to enforce a lien under this subsection (c) shall petition the court to retain jurisdiction for foreclosure proceedings under this subsection. Notice of the petition shall be served, by certified or registered mail, on all persons who were served notice under subsection (b). The court shall conduct a hearing on the petition not less than 15 days after the notice is served. If the court determines that the requirements of this

subsection (c) have been satisfied, it shall grant the petition and retain jurisdiction over the matter until the foreclosure proceeding is completed. The costs of foreclosure incurred by the township, including court costs, reasonable attorneys' fees, advances to preserve the property, and other costs related to the enforcement of this subsection, plus statutory interest, are a lien on the real estate and are recoverable by the township from the owner or owners of the real estate. If the court denies the petition, the township may enforce the lien in a separate action as provided in subsection (b).

All persons designated in Section 15-1501 of the Code of Civil Procedure as necessary parties in a mortgage foreclosure action shall be joined as parties before issuance of an order of foreclosure. Persons designated in Section 15-1501 of the Code of Civil Procedure as permissible parties may also be joined as parties in the action.

The provisions of Article XV of the Code of Civil Procedure applicable to mortgage foreclosures shall apply to the foreclosure of a lien under this subsection (c), except to the extent that those provisions are inconsistent with this subsection. For purposes of foreclosures of liens under this subsection, however, the redemption period described in subsection (c) of Section 15-1603 of the Code of Civil Procedure shall end 60 days after the date of entry of the order of foreclosure.

(d) In addition to any other remedy provided by law, the township board of any township may petition the circuit court to have property declared abandoned under this subsection (d) if:

(1) the property has been tax delinquent for 2 or more years or bills for water service for the property have been outstanding for 2 or more years;

(2) the property is unoccupied by persons legally in possession; and

(3) the property contains a dangerous or unsafe building.

All persons having an interest of record in the property, including tax purchasers and beneficial owners of any Illinois land trust having title to the property, shall be named as defendants in the petition and shall be served with process. In addition, service shall be had under Section 2-206 of the Code of Civil Procedure as in other cases affecting property.

The township, however, may proceed under this subsection in a proceeding brought under subsection (b). Notice of the petition shall be served by certified or registered mail on all persons who were served notice under subsection (b).

If the township proves that the conditions described in this subsection exist and the owner of record of the property does not enter an appearance in the action, or, if title to the property is held by an Illinois land trust, if neither the owner of record nor the owner of the beneficial interest of the trust enters an appearance, the court shall declare the property abandoned.

If that determination is made, notice shall be sent by certified or registered mail to all persons having an interest of record in the property, including tax purchasers and beneficial owners of any Illinois land trust having title to the property, stating that title to the property will be transferred to the township unless, within 30 days of the notice, the owner of record enters an appearance in the action, or unless any other person having an interest in the property files with the court a request to demolish the dangerous or unsafe building or to put the building in safe condition.

If the owner of record enters an appearance in the action within the 30-day period, the court shall vacate its order declaring the property abandoned. In that case, the township may amend its

complaint in order to initiate proceedings under subsection (b).

If a request to demolish or repair the building is filed within the 30-day period, the court shall grant permission to the requesting party to demolish the building within 30 days or to restore the building to safe condition within 60 days after the request is granted. An extension of that period for up to 60 additional days may be given for good cause. If more than one person with an interest in the property files a timely request, preference shall be given to the person with the lien or other interest of the highest priority.

If the requesting party proves to the court that the building has been demolished or put in a safe condition within the period of time granted by the court, the court shall issue a quitclaim judicial deed for the property to the requesting party, conveying only the interest of the owner of record, upon proof of payment to the township of all costs incurred by the township in connection with the action, including but not limited to court costs, attorney's fees, administrative costs, the costs, if any, associated with building enclosure or removal, and receiver's certificates. The interest in the property so conveyed shall be subject to all liens and encumbrances on the property. In addition, if the interest is conveyed to a person holding a certificate of purchase for the property under the Property Tax Code, the conveyance shall be subject to the rights of redemption of all persons entitled to redeem under that Act, including the original owner of record.

If no person with an interest in the property files a timely request or if the requesting party fails to demolish the building or put the building in safe condition within the time specified by the court, the township may petition the court to issue a judicial deed for the property to the county. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, including tax liens.

(e) This Section applies only to requests made by townships under subsection (a) before January 1, 2006 and proceedings to implement or enforce this Section with respect to matters related to or arising from those requests.

Section 99. Effective date. This Act takes effect upon becoming law.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Sieben, **House Bill No. 176** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Judiciary, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 176 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the No Call Registry Act.

Section 5. Definitions. As used in this Act:

(a) "Residential subscriber" means a person or spouse who has subscribed to residential telephone service from a local exchange company, a guardian of the person or the person's spouse, or an individual who has power of attorney from or an authorized agent of the person or the person's spouse.

(b) "Established business relationship" means the existence of an oral or written arrangement, agreement, contract, or other legal

state of affairs between a person or entity and an existing customer under which both parties have a course of conduct or established pattern of activity for commercial or mercantile purposes and for the benefit or profit of both parties. A pattern of activity does not necessarily mean multiple previous contacts. The established business relationship must exist between the existing customer and the person or entity directly, and does not extend to any related business entity or other business organization of the person or entity or related to the person or entity or the person or entity's agent including but not limited to a parent corporation, subsidiary partnership, company or other corporation or affiliate.

(c) "Existing customer" means an individual who has either:

(1) entered into a transaction, agreement, contract, or other legal state of affairs between a person or entity and a residential subscriber under which the payment or exchange of consideration for any goods or services has taken place within the preceding 18 months or has been arranged to take place at a future time; or

(2) opened or maintained a debit account, credit card account, or other revolving credit or discount program offered by the person or entity and has not requested the person or entity to close such account or terminate such program.

(d) "Registry" means the No Call Registry established under this Act.

(e) "Telephone solicitation" means any voice communication over a telephone line from a live operator, through the use of an autodialer or autodialer system, as defined in Section 5 of the Automatic Telephone Dialers Act, or by other means for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, but does not include communications:

(1) to any residential subscriber with that subscriber's prior express invitation or permission when a voluntary 2-way communication between a person or entity and a residential subscriber has occurred with or without an exchange of consideration;

(2) by or on behalf of any person or entity with whom a residential subscriber has an established business relationship which has not been terminated in writing by either party and which is related to the nature of the established business relationship;

(3) by or on behalf of any person or entity with whom a residential subscriber is an existing customer, unless the customer has stated to the person or entity or the person or entity's agent that he or she no longer wishes to receive the telemarketing sales calls of the person or entity, or unless the nature of the call is unrelated to the established business relationship with the existing customer;

(4) by or on behalf of an entity organized under Section 501(c)(3), 501(c)(4), or 501(c)(6) of the Internal Revenue Code, while the entity is engaged in fundraising to support the charitable or not-for-profit purpose for which the entity was established;

(5) by or on behalf of a person licensed by the State of Illinois to carry out a trade, occupation, or profession who either:

(A) is setting or attempting to set a face to face appointment for actions relating to that licensed trade, occupation, or profession within this State; or

(B) is encouraging or attempting to encourage the purchase or rental of, or investment in, property, goods, or

services, which cannot be completed, and for which payment or authorization of payment is not required, until after a written or electronic agreement is signed by the residential subscriber; or

(6) until July 1, 2005, by or on behalf of any entity over which the Federal Communications Commission or the Illinois Commerce Commission has regulatory authority to the extent that, subject to that authority, the entity is required to maintain a license, permit, or certificate to sell or provide telecommunications service, as defined in Section 13-203 of the Public Utilities Act, while the entity is engaged in telephone solicitation for inter-exchange telecommunications service, as defined in Section 13-205 of the Public Utilities Act, or local exchange telecommunications service, as defined in Section 13-204 of the Public Utilities Act.

Section 10. Prohibited calls. Beginning July 1, 2002, no person or entity may make or cause to be made any telephone solicitation calls to any residential subscriber more than 45 days after the residential subscriber's telephone number or numbers first appear on the Registry.

Section 15. Complaints. The Illinois Commerce Commission shall receive telephone solicitation complaints from residential subscribers to object to such calls. Complaints shall be taken by any means deemed appropriate by the Illinois Commerce Commission. Complaints against persons or entities that are licensed, certificated, or permitted by a State or federal agency shall be forwarded for investigation by the Illinois Commerce Commission to the appropriate agency if the respective agency has the power to investigate such matters. All other complaints shall be investigated by the Illinois Commerce Commission. The standards for referrals and investigations shall be set forth in rules adopted by the Illinois Commerce Commission.

Section 20. Registry; establishment and maintenance.

(a) The Illinois Commerce Commission shall establish and provide for the operation of a No Call Registry, which shall contain a list of the telephone numbers of residential subscribers who do not wish to receive telephone solicitation calls. The Illinois Commerce Commission may contract with a private vendor to establish and maintain the Registry if the contract requires the vendor to provide the Registry in a printed hard copy format, in an electronic format, and in any other format prescribed by the Illinois Commerce Commission.

(b) No later than January 1, 2002, the Illinois Commerce Commission shall adopt rules consistent with this Act that the Illinois Commerce Commission deems necessary and appropriate to fully implement this Act. The rules shall include, at a minimum, methods by which any person or entity desiring to make telephone solicitation calls may obtain access to the Registry to avoid calling the telephone numbers of residential subscribers included in the Registry.

(c) The fee for obtaining the Registry shall be set forth in rules adopted by the Illinois Commerce Commission. The fee may not exceed $500 annually. All copies requested in a printed hard copy format shall be assessed a per page fee to be determined by rules adopted by the Illinois Commerce Commission.

(d) The Illinois Commerce Commission shall update the Registry and make information in the Registry available on a quarterly basis in an electronic format and, if deemed appropriate by the Illinois Commerce Commission, in one or more other formats.

(e) If the Federal Communications Commission or Federal Trade

Commission establishes a single national database of telephone numbers of subscribers who object to receiving telephone solicitations under Title 47, Section 227(c)(3) of the United States Code, this State shall discontinue the Registry.

(f) Information in the Registry is confidential and shall be afforded reasonable privacy protection except as necessary for compliance with Sections 10 and 25 and this Section or in a proceeding or action under Section 35 or 40. The information is not a public record under the Freedom of Information Act.

(g) The Illinois Commerce Commission shall periodically obtain subscription listings of residential subscribers in this State who have arranged to be included in any national do-not-call list and add those names to the Registry.

Section 25. Enrollment.

(a) The Illinois Commerce Commission shall provide notice to residential subscribers of the establishment of the Registry.

(b) The Illinois Commerce Commission shall establish any method deemed appropriate for a residential subscriber to notify the Illinois Commerce Commission that the residential subscriber wishes to be included in the Registry.

(c) There shall be no cost to a residential subscriber for inclusion in the Registry.

(d) A residential subscriber in the Registry shall be deleted from the Registry upon the residential subscriber's written request.

(e) Enrollment in the Registry is effective from the start of the quarter following the date of enrollment for a term of 5 years or until the residential subscriber disconnects or changes his or her telephone number, whichever occurs first. The residential subscriber is responsible for notifying the Illinois Commerce Commission of any changes in his or her telephone number. The Illinois Commerce Commission shall use its best efforts to notify enrolled residential subscribers before the end of the 5-year enrollment term of the option to re-enroll. Residential subscribers who do not re-enroll before the end of the 5-year term shall be removed from the Registry.

Section 30. Public notification. The Illinois Commerce Commission shall work with local exchange telecommunications companies to disseminate to their customers information about the availability of and instructions for requesting educational literature from the Illinois Commerce Commission. The Illinois Commerce Commission may enter into agreements with those companies for the dissemination of the educational literature. Telecommunications companies shall disseminate the educational literature at least once per year in both a message contained in customers' bills and a notice in the information section of all telephone directories distributed to customers. The Illinois Commerce Commission shall include, on its Internet web site, information to customers regarding their right to be included in the Registry and the various methods, including notice to the Illinois Commerce Commission, of being included in the Registry. The Illinois Commerce Commission shall have this literature developed for dissemination to the public no later than March 1, 2002.

Section 35. Violation; relief.

(a) The Illinois Commerce Commission may initiate administrative proceedings in accordance with rules adopted under this Act relating to a knowing and willful violation of Section 10.

(b) If it is determined after a hearing that a person has knowingly and willfully violated one or more provisions of this Section, the Illinois Commerce Commission may assess a fine not to exceed $2,500 for each violation.

(c) Any proceeding conducted under this Section is subject to

the Illinois Administrative Procedure Act.

(d) Nothing in this Section may be construed to restrict any right that any person may have under any other law or at common law.

(e) No action or proceeding may be brought under this Section:

(1) more than one year after the person bringing the action knew or should have known of the occurrence of the alleged violation; or

(2) more than one year after the termination of any proceeding or action arising out of the same violation or violations by the State of Illinois, whichever is later.

(f) The remedies, duties, prohibition, and penalties in this Act are not exclusive and are in addition to all other causes of action, remedies, and penalties provided by law.

(g) There is created in the State treasury a special fund to be known as the No Call Registry Fund. All fees and fines collected in the administration and enforcement of this Act shall be deposited into the Fund. Moneys in the Fund shall, subject to appropriation, be used by the Illinois Commerce Commission for implementation, administration, and enforcement of this Act.

Section 40. Exemption. A person or entity may not be held liable for violating this Act if:

(1) the person or entity has obtained copies of the Registry and each updated Registry and has established and implemented written policies and procedures related to the requirements of this Act;

(2) the person or entity has trained its personnel in the requirements of this Act;

(3) the person or entity maintains records demonstrating compliance with subdivisions (1) and (2) of this Section and the requirements of this Act; and

(4) any subsequent telephone solicitation is the result of error.

Section 90. The State Finance Act is amended by adding Section 5.545 as follows:

(30 ILCS 105/5.545 new)

Sec. 5.545. The No Call Registry Fund.

Section 99. Effective date. This Act takes effect upon becoming law.".

Floor Amendment No. 2 was held in the Committee on Rules.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Hendon, **House Bill No. 280** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Ronen, **House Bill No. 447** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Bomke, **House Bill No. 1008** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Philip, **House Bill No. 1199** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Philip, **House Bill No. 1200** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Philip, **House Bill No. 1203** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Philip, **House Bill No. 1204** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Sieben, **House Bill No. 1478** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Local Government, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 1478 by replacing everything after the enacting clause with the following:

"ARTICLE 5.

Section 5-1. Short title. This Article may be cited as the Dixon Railroad Relocation Authority Law.

Section 5-5. Legislative declaration. The General Assembly declares that the welfare, health, prosperity, and moral and general well being of the people of the State are, in large measure, dependent upon the sound and orderly development of municipal areas. The City of Dixon has become and will increasingly be the hub of transportation from all parts of the region. Motor vehicle traffic, pedestrian travel, and the safety of both motorists and pedestrians are substantially aggravated by the location of a railroad spur line running through the City of Dixon. The presence of the railroad spur line in the City of Dixon is detrimental to the orderly expansion of industry and commerce and to progress of the region. To alleviate this situation it is necessary to relocate the railroad, to acquire property for relocation of the railroad or highways, and to create an agency to facilitate and accomplish that relocation.

Section 5-10. Creation; duration. There is created a body politic and corporate and a unit of local government named the Dixon Railroad Relocation Authority, embracing Lee County. The Authority shall continue in existence until the accomplishment of its objective, the relocation of the railroad spur line running through the City of Dixon or until the Authority officially resolves that it is impossible or economically unfeasible to fulfill that objective.

Section 5-15. Acquisition of property. The Authority shall have the power to acquire by gift, purchase, or legacy the fee simple title to real property located within the boundaries of the Authority, including temporary and permanent easements, as well as reversionary interests in the streets, alleys and other public places and personal property, required for its purposes, and title thereto shall be taken in the corporate name of the Authority. Any such property that is already devoted to a public use may nevertheless be acquired, provided that no property belonging to the United States of America or the State of Illinois may be acquired without the consent of such governmental unit. No property devoted to a public use belonging to a corporation subject to the jurisdiction of the Illinois Commerce Commission may be acquired without a prior finding by the Illinois Commerce Commission that the taking would not result in the imposition of an undue burden on instrastate commerce. All land and appurtenances thereto, acquired or owned by the Authority, are to be deemed acquired or owned for a public use or public purpose.

Section 5-20. Sale or exchange of property. The Authority shall have the power to sell, transfer, exchange, vacate or assign property acquired for the purposes of this Act as it shall deem appropriate.

Section 5-25. Acceptance of grants, loans, and appropriations. The Authority shall have the power to apply for and accept grants, loans, advances, and appropriations from the Federal Government and from the State of Illinois or any agency or instrumentality thereof

to be used for the purposes of the Authority, and to enter into any agreement in relation to such grants, loans, advances, and appropriations. The Authority may also accept from the State, any State agency, department or commission, any county or other political subdivision, any municipal corporation, any railroad, or any school authorities, or jointly therefrom, grants of funds or services for any of the purposes of this Article. The Authority shall be treated as a rail carrier subject to the Illinois Commerce Commission's jurisdiction and eligible to receive money from the Grade Crossing Protection Fund or any fund of the State or other source available for purposes of promoting safety and separation of at-grade railroad crossings or highway improvements.

Section 5-30. Borrowing money and issuance of bonds. The Authority may incur debt and borrow money from time to time and, in evidence thereof, may issue and sell bonds in such amounts as the Authority may determine, to provide funds for carrying out the purposes of this Article and to pay all costs and expenses incident thereto, and to refund and refinance, from time to time, bonds so issued and sold, as often as may be deemed to be advantageous by the Authority.

Section 5-35. Taxing powers. The Authority shall not have the power to levy real property taxes for any purpose whatsoever.

Section 5-40. Board; composition; qualification; compensation and expenses. The Authority shall be governed by a board consisting of 5 members. The members of the Authority shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of duties prescribed by the Authority. However, any member of the Authority who serves as secretary or treasurer may receive compensation for services as that officer.

Section 5-45. Appointments; tenure; oaths; vacancies. The members of the Authority shall be appointed by the Governor, who shall give notice of the member's selection to each other member within 10 days after selection and before the member's entering upon the duties of office. Three of the members shall be appointed by the Governor from a list of 4 candidates provided by the mayor of the City of Dixon, and 2 of the members shall be appointed by the Governor from a list of 3 candidates provided by the chairman of the county board of Lee County. Each member of the Authority shall take and subscribe to the constitutional oath of office and file it with the Secretary of State. If a vacancy occurs by death, resignation, or otherwise, the vacancy shall be filled by the Governor. All appointments of members shall be for a 3-year term. Each member shall continue to serve an additional 3-year term unless that member is replaced by appointment within 60 days of the end of his or her term.

Section 5-50. Removal of members. The Governor may remove from office any Authority member immediately in case of incompetency, neglect of duty, or malfeasance of office, or otherwise upon 15 days written notice to the other members. Absence from any 3 consecutive regular meetings of the Authority shall be deemed neglect of duty.

Section 5-55. Organization; chairperson and temporary Secretary. As soon as possible after the appointment of the initial members, the Authority shall organize for the transaction of business, select a chairperson and a temporary secretary from its own number, and adopt bylaws to govern its proceedings. The initial chairperson and successors shall be elected by the Authority from time to time from among the members. The Authority may act through its members by entering into an agreement that a member act on the Authority's behalf, in which instance the act or performance directed shall be deemed to be exclusively of, for, and by the Authority and not the

individual act of the member or its represented person.

Section 5-60. Meetings; quorum; resolutions. Regular meetings of the Authority shall be held at least quarterly, the time and place of those meetings to be fixed by the Authority. Special meetings may be called by the chairperson or by any 3 members of the Authority by giving notice thereof in writing, stating the time, place, and purpose of the meeting. The notice shall be served by special delivery letter deposited in the mail at least 48 hours before the meeting. A majority of the members of the Authority shall constitute a quorum for the transaction of business. All action of the Authority shall be by resolution and, except as otherwise provided in this Article, the affirmative vote of at least a majority shall be necessary for the adoption of any resolution. The chairperson shall be entitled to vote on any and all matters coming before the Authority.

Section 5-65. Secretary and treasurer; oaths; bond of treasurer. The Authority may appoint a secretary and a treasurer, who need not be members of the Authority, to hold office during the pleasure of the Authority, and fix their duties and compensation. Before entering upon the duties of their respective offices, they shall take and subscribe to the constitutional oath of office, and the treasurer shall execute a bond with corporate sureties to be approved by the Authority. The bond shall be payable to the Authority in whatever penal sum may be directed by the Authority conditioned upon the faithful performance of the duties of the office and the payment of all money received by the treasurer according to law and the orders of the Authority. The Authority may, at any time, require a new bond for the treasurer in such penal sum as may then be determined by the Authority.

Section 5-70. Deposit and withdrawal of funds; signatures. All funds deposited by the treasurer in any bank or savings and loan association shall be placed in the name of the Authority and shall be withdrawn or paid out only by check or draft upon the bank or savings and loan association, signed by the treasurer and countersigned by the chairperson of the Authority. Subject to prior approval of the designations by a majority of the Authority, the chairperson may designate any other member or any officer of the Authority to affix the signature of the treasurer to any Authority check or draft for payment of salaries or wages and for payment of any other obligation of not more than $2,500.

No bank or savings and loan association shall receive public funds as permitted by this Section unless it has complied with the requirements established under Section 6 of the Public Funds Investment Act.

Section 5-75. Delivery of check after executing officer ceases to hold office. If any officer whose signature appears upon any check or draft issued pursuant to this Article ceases to hold office before the delivery of the check or draft to the payee, the officer's signature nevertheless shall be valid and sufficient for all purposes with the same effect as if the officer had remained in office until delivery of the check or draft.

Section 5-80. Rules. The Authority may make all rules proper or necessary to carry into effect the powers granted to it. The rules shall be consistent with the guidelines, objectives, and project scope as set out by the Illinois Commerce Commission.

Section 5-85. Fiscal year. The Authority shall designate its fiscal year.

Section 5-90. Reports and financial statements. Within 60 days after the end of its fiscal year, the Authority shall cause to be prepared by a certified public accountant a complete and detailed

report and financial statement of the operations and assets and liabilities as related to the Dixon railroad relocation project. A reasonably sufficient number of copies of the report shall be prepared for distribution to persons interested, upon request, and a copy of the report shall be filed with the Illinois Commerce Commission and with the county clerk of Lee County.

Section 5-95. Construction. Nothing in this Article shall be construed to confer upon the Authority the right, power, or duty to order or enforce the abandonment of any present property of the railroads or the use in substitution therefor of any property acquired for the railroads in the absence of a contract duly executed by the railroads and the Authority setting forth the terms and conditions upon which relocation of the right of way and physical facilities of the railroads is to be accomplished. No such contract shall be or become enforceable until the provisions of the contract have been approved or authorized by the Illinois Commerce Commission.

Section 5-100. Existing contracts, obligations, and liabilities. No contract, obligation, or liability whatever of the railroads to pay any money into the State treasury, nor any lien of the State upon or right to tax property of the railroads, shall be released, suspended, modified, altered, remitted, or in any manner diminished or impaired by the contract with the Authority, and any such charter provisions applicable to the property on which the railroads are now located shall be deemed in full force and effect with respect to any property on which the railroads are relocated in substitution therefor pursuant to the provisions of this Act or any such contract with the Authority pursuant thereto. Notwithstanding, upon order of the Illinois Commerce Commission, the Authority shall succeed to and assume the performance and actions of the represented persons under the terms of the order and amending orders previously entered relative to the Dixon railroad relocation project and consistent with the objectives of the Authority.

Section 5-105. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

ARTICLE 10.

Section 10-5. The 25th Avenue Railroad Relocation and Development Authority Act is amended by changing the title of the Act and Sections 1, 5, 10, 40, 45, 60, and 90 as follows:

(70 ILCS 1920/Act title)

An Act creating the West Cook ~~25th Avenue~~ Railroad Relocation and Redevelopment Authority.

(70 ILCS 1920/1)

Sec. 1. Short title. This Act may be cited as the West Cook ~~25th Avenue~~ Railroad Relocation and Development Authority Act.
(Source: P.A. 91-562, eff. 8-14-99.)

(70 ILCS 1920/5)

Sec. 5. Legislative declaration. The General Assembly declares that the welfare, health, prosperity, and moral and general well being of the people of the State are, in large measure, dependent upon the sound and orderly development of municipal areas. The Village of Bellwood , the Village of Maywood, and the Village of Melrose Park, by reason of the location therein of 25th Avenue and the First Avenue vicinity between Lake Street on the North, Oak Street on the South, the Des Plaines River on the East, and Fifth Avenue on the West and their ~~its~~ use for vehicular travel in access to the entire west metropolitan Chicago area, including municipalities in 2 counties, as well as commercial and industrial growth patterns and accessibility to O'Hare International Airport, Midway Airport, manufacturing, and freight related facilities, have become and will increasingly be the hub of transportation from all

parts of the region and throughout the west metropolitan area. Motor vehicle traffic, pedestrian travel, and the safety of both motorists and pedestrians are substantially aggravated by the location of a major railroad right of way that divides the Village of Bellwood and the Village of Melrose Park. Additionally, certain development opportunities may exist in the project area that would stabilize and enhance the tax base of existing communities, maintain and revitalize existing commerce and industry, create opportunities for intersurface modal transportation efficiencies, and promote comprehensive planning within and between communities. The presence of the railroad right of way at the 25th Avenue grade crossing is detrimental to the orderly expansion of industry and commerce and to progress of the region. To alleviate this situation it is necessary to relocate the railroad tracks and right of way on 25th Avenue and First Avenue, to separate the grades at crossings ~~crossing~~, to acquire property for relocation or submergence of the railroad or highways, to create an agency to facilitate and accomplish that relocation, and to direct infrastructure and development improvements in the 25th Avenue vicinity between St. Charles Road and Lake Street and the First Avenue vicinity between Lake Street on the North, Oak Street on the South, the Des Plaines River on the East, and Fifth Avenue on the West.

Additionally, certain development opportunities may exist in the West Cook County region from Harlem Avenue on the East to I-294 on the West and from Grand Avenue on the North to 31st Street on the South that would stabilize and enhance the tax base of existing communities, maintain and revitalize existing commerce and industry, create opportunities for modal transportation efficiencies, and promote comprehensive planning within and between communities.

(Source: P.A. 91-562, eff. 8-14-99.)

(70 ILCS 1920/10)

Sec. 10. Creation; duration. There is created a body politic and corporate, a unit of local government, named the West Cook ~~25th Avenue~~ Railroad Relocation and Development Authority, embracing that portion of Proviso Township embracing that portion of the Village of Bellwood and the Village of Melrose Park from St. Charles Road on the South to Lake Street on the North, and from the Indiana Harbor Belt Railroad on the West to 22nd Avenue on the East, Cook County, Illinois and the Village of Maywood, Cook County, Illinois. The Authority shall continue in existence until the accomplishment of its objective, the relocation of the railroad tracks and 25th Avenue, the grade separation of railroads from the right of way and at-grade crossing closures within the Village of Bellwood and the Village of Melrose Park, the grade separation of railroads from the right-of-way and at grade crossing in the First Avenue vicinity between Lake Street, Oak Street, the Des Plaines River, and Fifth Avenue, and the establishment of a transit-oriented intersurface modal development facility in the project area, or until the Authority officially resolves that it is impossible or economically unfeasible to fulfill that objective.

(Source: P.A. 91-562, eff. 8-14-99.)

(70 ILCS 1920/40)

Sec. 40. Board; composition; qualification; compensation and expenses. The Authority shall be governed by a board consisting of 7 ~~5~~ members. The members of the Authority shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of duties prescribed by the Authority. However, any member of the Authority who serves as secretary or treasurer may receive compensation for services as that officer.

(Source: P.A. 91-562, eff. 8-14-99.)

(70 ILCS 1920/45)

Sec. 45. Appointments; tenure; oaths; vacancies. The members of the Authority shall be appointed by the Governor, who shall give notice of the member's selection to each other member within 10 days after selection and before the member's entering upon the duties of office. Two of the members shall be recommended to the Governor from a list of 3 candidates provided by the village president of the Village of Bellwood, 2 of the members shall be recommended to the Governor from a list of 3 candidates provided by the village president of the Village of Maywood, and 2 of the members shall be recommended to the Governor from a list of 3 candidates provided by the village president of the Village of Melrose Park. The office of chairman shall rotate annually and shall represent the Village of Bellwood, the Village of Melrose Park, the Village of Maywood, and the Governor's appointments, respectively, for each of the 3 years of the term of office. Each representative member of the Authority shall take and subscribe to the constitutional oath of office and file it with the Secretary of State. If a vacancy occurs by death, resignation, or otherwise, the vacancy shall be filled by the appropriate selecting party. All appointments of members shall be for a 3-year term. Each member shall continue to serve an additional 3-year term unless that member is replaced by appointment within 60 days of the end of his or her term.

(Source: P.A. 91-562, eff. 8-14-99.)

(70 ILCS 1920/60)

Sec. 60. Meetings; quorum; resolutions. Regular meetings of the Authority shall be held at least quarterly, the time and place of those meetings to be fixed by the Authority. Special meetings may be called by the Chair or by any 4 3 members of the Authority by giving notice thereof in writing, stating the time, place, and purpose of the meeting. The notice shall be served by special delivery letter deposited in the mails at least 48 hours before the meeting. A majority of the members of the Authority shall constitute a quorum for the transaction of business. All action of the Authority shall be by resolution and, except as otherwise provided in this Act, the affirmative vote of at least a majority shall be necessary for the adoption of any resolution. The Chair shall be entitled to vote on any and all matters coming before the Authority.

(Source: P.A. 91-562, eff. 8-14-99.)

(70 ILCS 1920/90)

Sec. 90. Reports and financial statements. Within 60 days after the end of its fiscal year, the Authority shall cause to be prepared by a certified public accountant a complete and detailed report and financial statement of the operations and assets and liabilities as relate to the 25th Avenue railroad grade separation project and the First Avenue railroad grade separation project. A reasonably sufficient number of copies of the report shall be prepared for distribution to persons interested, upon request, and a copy of the report shall be filed with the Illinois Commerce Commission and with the county clerk of Cook County.

(Source: P.A. 91-562, eff. 8-14-99.)

ARTICLE 99.

Section 99-1. Effective date. This Act takes effect upon becoming law.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Klemm, **House Bill No. 1810** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Dillard, **House Bill No. 1814** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Smith, **House Bill No. 1819** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Dillard, **House Bill No. 1900** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Judiciary, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 1900 by replacing everything after the enacting clause with the following:

"AN ACT concerning abortions."; and

by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Parental Notice of Abortion Act of 2001.

Section 5. Legislative findings and purpose. The General Assembly finds that notification of an adult family member as defined in this Act is in the best interest of an unemancipated minor, and the General Assembly's purpose in enacting this parental notice law is to further the important and compelling State interests of protecting the best interests of an unemancipated minor, fostering the family unit and preserving it as a viable social unit, protecting the constitutional rights of parents to rear children who are members of their household, and preventing the influx of minors entering the State of Illinois to evade the laws of their home state that require parental notification or parental consent.

The medical, emotional, and psychological consequences of abortion are sometimes serious and long-lasting, and immature minors often lack the ability to make fully informed choices that consider both the immediate and long-range consequences.

Parental consultation is usually in the best interest of the minor and is desirable since the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related. Parents ordinarily possess information essential to a physician's exercise of his or her best medical judgment concerning the minor, and parents who are aware their daughter has had an abortion may better ensure her appropriate medical attention after her abortion.

Section 10. Definitions. In this Act:

"Abortion" means the use of any instrument, medicine, or drug, or any other substance or device, to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of a child after live birth, or to remove a dead fetus.

"Actual notice" means the giving of notice directly, in person or by telephone, and not by facsimile, voice mail, or answering machine message.

"Adult family member" means a person over 18 years of age who is:

(1) the parent of the minor or incompetent person;

(2) a step-parent married to and residing with the custodial parent of the minor or incompetent person; or

(3) a legal guardian of the minor or incompetent person.

"Constructive notice" means notice sent by certified mail to the last known address of the person entitled to notice, with delivery deemed to have occurred 48 hours after the notice is mailed.

"Incompetent person" means a person who has been adjudged as mentally ill or developmentally disabled and who, because of her

mental illness or developmental disability, is not fully able to manage her person and for whom a guardian of the person has been appointed under subdivision (a)(1) of Section 11a-3 of the Probate Act of 1975.

"Medical emergency" means a condition that, on the basis of a physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

"Minor" means any person under 18 years of age who is not or has not been married or who has not been emancipated under the Emancipation of Mature Minors Act.

"Neglect" means the failure of an adult family member to supply a child with necessary food, clothing, shelter, or medical care when reasonably able to do so or the failure to protect a child from conditions or actions that imminently and seriously endanger the child's physical or mental health when reasonably able to do so.

"Physical abuse" means any physical injury intentionally inflicted by an adult family member on a child.

"Physician" means a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987.

"Sexual abuse" means any sexual conduct or sexual penetration as defined in Section 12-12 of the Criminal Code of 1961 that is prohibited by the criminal laws of the State of Illinois and committed against a minor by an adult family member as defined in this Act.

Section 15. Notice to adult family member. No person shall knowingly perform an abortion upon a minor or upon an incompetent person unless the person or his or her agent has given at least 48 hours actual notice to an adult family member of the pregnant minor or incompetent person of his or her intention to perform the abortion, unless that person or his or her agent has received a written statement by a referring physician certifying that the referring physician or his or her agent has given at least 48 hours notice to an adult family member of the pregnant minor or incompetent person. If actual notice is not possible after a reasonable effort, the person or his or her agent must give 48 hours constructive notice.

Section 20. Exceptions. Notice is not required under this Act if:

(1) at the time the abortion is performed, the minor or incompetent person is accompanied by a person entitled to notice under this Act; or

(2) notice under this Act is waived in writing by a person who is entitled to that notice; or

(3) the attending physician certifies in the patient's medical record that a medical emergency exists and there is insufficient time to provide the required notice; or

(4) the minor declares in writing that she is a victim of sexual abuse, neglect, or physical abuse by an adult family member as defined in this Act, in which case (i) the attending physician must certify in the patient's medical record that he or she has received the written declaration of abuse or neglect and (ii) any notification of public authorities of abuse that may be required under other laws of this State need not be made by the person performing the abortion until after the minor receives an abortion that otherwise complies with the requirements of this Act; or

(5) notice under this Act is waived under Section 25.

Section 25. Procedure for judicial waiver of notice.

(a) The requirements and procedures under this Section are available to minors and incompetent persons whether or not they are residents of this State.

(b) A minor or incompetent person may petition any circuit court for a waiver of the parental notice of abortion requirement under this Act and may participate in proceedings on her own behalf. The court shall appoint a guardian ad litem for her in any such proceedings. A guardian ad litem appointed under this Act must act to maintain the confidentiality of the proceedings. The circuit court shall advise the minor or incompetent person that she has a right to court-appointed counsel and shall provide her with counsel upon her request.

(c) Court proceedings under this Section shall be confidential and must ensure the anonymity of the minor or incompetent person. All court proceedings under this Section shall be sealed. The minor or incompetent person has the right to file her petition in the circuit court using a pseudonym or using solely her initials. All documents related to the petition shall be confidential and shall not be made available to the public. These proceedings shall be given precedence over other pending matters to the extent necessary to ensure that the court reaches a decision promptly. The court shall rule and issue written findings of fact and conclusions of law within 48 hours after the petition is filed, except that the 48-hour limitation may be extended at the request of the minor or incompetent person. If the court fails to rule within the 48-hour period and an extension is not requested, then the petition shall be deemed to have been granted, and the notice requirement shall be waived.

(d) Notice under this Act shall be waived if the court finds by clear and convincing evidence either:

(1) that the minor or incompetent person is sufficiently mature and well-enough informed to decide intelligently whether to have an abortion; or

(2) that notification under Section 15 of this Act would not be in the best interests of the minor or incompetent person.

(e) A court that conducts proceedings under this Section shall issue written and specific factual findings and legal conclusions supporting its decision and shall order that a confidential record of the evidence and the judge's findings and conclusions be maintained.

(f) An expedited confidential appeal shall be available to any minor or incompetent person to whom the circuit court denies a waiver of notice under this Act. An order authorizing an abortion without notice is not subject to appeal.

(g) The following rules apply to the appeal of a denial of a petition for waiver of parental notice of abortion under this Section. These rules shall remain in effect only until the Illinois Supreme Court issues its own rules providing for an expedited confidential appeal of a denial of a petition for waiver of parental notice. If the rules adopted by the Illinois Supreme Court are declared unconstitutional, the following rules are thereafter once again in effect.

(1) Review of the denial of a waiver of parental notice under this Act shall be by petition filed in the Appellate Court. An appropriate supporting record must accompany the petition. The record must include the notice of interlocutory appeal; the pleadings filed in the circuit court, if any; the decision of the circuit court, including the specific findings of fact and legal conclusions supporting the decision; and any supporting documents of record the petition may offer. The record may be authenticated by the certificate of the clerk of the trial court

or by the affidavit of an attorney or party filing it.

(2) The minor or incompetent petitioner may file a brief statement of facts and a short memorandum of law supporting her petition. These may be filed instead of a brief and abstract and must be filed within 2 days after the denial of the petition for waiver of parental notice.

(3) Except by order of the court upon request of the minor or incompetent petitioner or her guardian ad litem or counsel, no extension of time may be granted.

(4) After the petitioner has filed the petition, supporting record, and any memorandum, the Appellate Court shall consider and decide the petition within 2 days. No oral argument on the petition may be heard.

(5) The minor or incompetent petitioner may appear and file her notice of appeal and her petition using only her initials or a pseudonym. If she does not use her own name, however, she must provide the Clerk of the Appellate Court with a name, telephone number, and address where she can be reached to be informed of the time and place of any hearing and the decision of the court.

(6) The Appellate Court shall appoint counsel to assist the minor or incompetent petitioner if she so requests.

(7) All Appellate Court records concerning an appeal under this Section shall be sealed as confidential. Inspection and copying of any court records relating to the proceeding and the minor or incompetent person who is the subject of the proceeding shall not be available to the minor or incompetent person who is the subject of the proceeding or to her guardian ad litem or counsel.

(8) Any further appeal to the Illinois Supreme Court may be taken in a manner similar to that provided in other civil cases.

(h) No fees shall be required of any minor or incompetent person who avails herself of the procedures provided by this Section.

Section 30. Minor's consent to abortion. A person may not perform an abortion on a minor without the minor's consent, except in a medical emergency.

Section 35. Reports. The Department of Public Health must comply with the reporting requirements set forth in the consent decree in Herbst v. O'Malley, case no. 84-C-5602 in the U.S. District Court for the Northern District of Illinois, Eastern Division. These reports must also include a statement of whether the required notice under Section 15 of this Act was given and, if an exception to the notice requirement applies, which exception was used. No patient's name or any other information that could lead to the identification of the patient may be used in any report submitted under this Section.

Section 40. Penalties.

(a) A physician who willfully fails to provide notice as required under this Act before performing an abortion on a minor or an incompetent person shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with Section 22 of the Medical Practice Act of 1987.

(b) A person, not authorized under this Act, who signs any waiver of notice under this Act for a minor or incompetent person seeking an abortion is guilty of a Class C misdemeanor.

(c) A person who discloses confidential information in violation of Section 25 is guilty of a Class C misdemeanor.

Section 45. Immunity. A physician who, in good faith, provides notice in accordance with Section 15 or relies on an exception under Section 20 is not subject to any type of civil or criminal liability or discipline for unprofessional conduct for failure to give notice required under this Act.

Section 50. Severability. If any provision, word, phrase, or clause of this Act, or its application to any person or circumstance, is held invalid, the invalidity of that provision or application does not affect the provisions, words, phrases, clauses, or applications of the Act that can be given effect without the invalid provision, word, phrase, clause, or application, and to this end the provisions, words, phrases, and clauses of this Act are declared to be severable.

Section 90. The Medical Practice Act of 1987 is amended by changing Sections 22 and 23 as follows:

(225 ILCS 60/22) (from Ch. 111, par. 4400-22)

Sec. 22. Disciplinary action.

(A) The Department may revoke, suspend, place on probationary status, or take any other disciplinary action as the Department may deem proper with regard to the license or visiting professor permit of any person issued under this Act to practice medicine, or to treat human ailments without the use of drugs and without operative surgery upon any of the following grounds:

(1) Performance of an elective abortion in any place, locale, facility, or institution other than:

(a) a facility licensed pursuant to the Ambulatory Surgical Treatment Center Act;

(b) an institution licensed under the Hospital Licensing Act; or

(c) an ambulatory surgical treatment center or hospitalization or care facility maintained by the State or any agency thereof, where such department or agency has authority under law to establish and enforce standards for the ambulatory surgical treatment centers, hospitalization, or care facilities under its management and control; or

(d) ambulatory surgical treatment centers, hospitalization or care facilities maintained by the Federal Government; or

(e) ambulatory surgical treatment centers, hospitalization or care facilities maintained by any university or college established under the laws of this State and supported principally by public funds raised by taxation.

(2) Performance of an abortion procedure in a wilful and wanton manner on a woman who was not pregnant at the time the abortion procedure was performed.

(3) The conviction of a felony in this or any other jurisdiction, except as otherwise provided in subsection B of this Section, whether or not related to practice under this Act, or the entry of a guilty or nolo contendere plea to a felony charge.

(4) Gross negligence in practice under this Act.

(5) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(6) Obtaining any fee by fraud, deceit, or misrepresentation.

(7) Habitual or excessive use or abuse of drugs defined in law as controlled substances, of alcohol, or of any other substances which results in the inability to practice with reasonable judgment, skill or safety.

(8) Practicing under a false or, except as provided by law, an assumed name.

(9) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.

(10) Making a false or misleading statement regarding their skill or the efficacy or value of the medicine, treatment, or remedy prescribed by them at their direction in the treatment of any disease or other condition of the body or mind.

(11) Allowing another person or organization to use their license, procured under this Act, to practice.

(12) Disciplinary action of another state or jurisdiction against a license or other authorization to practice as a medical doctor, doctor of osteopathy, doctor of osteopathic medicine or doctor of chiropractic, a certified copy of the record of the action taken by the other state or jurisdiction being prima facie evidence thereof.

(13) Violation of any provision of this Act or of the Medical Practice Act prior to the repeal of that Act, or violation of the rules, or a final administrative action of the Director, after consideration of the recommendation of the Disciplinary Board.

(14) Dividing with anyone other than physicians with whom the licensee practices in a partnership, Professional Association, limited liability company, or Medical or Professional Corporation any fee, commission, rebate or other form of compensation for any professional services not actually and personally rendered. Nothing contained in this subsection prohibits persons holding valid and current licenses under this Act from practicing medicine in partnership under a partnership agreement, including a limited liability partnership, in a limited liability company under the Limited Liability Company Act, in a corporation authorized by the Medical Corporation Act, as an association authorized by the Professional Association Act, or in a corporation under the Professional Corporation Act or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the Board of Directors of the corporation or association. Nothing contained in this subsection prohibits 2 or more corporations authorized by the Medical Corporation Act, from forming a partnership or joint venture of such corporations, and providing medical, surgical and scientific research and knowledge by employees of these corporations if such employees are licensed under this Act, or from pooling, sharing, dividing, or apportioning the fees and monies received by the partnership or joint venture in accordance with the partnership or joint venture agreement. Nothing contained in this subsection shall abrogate the right of 2 or more persons, holding valid and current licenses under this Act, to each receive adequate compensation for concurrently rendering professional services to a patient and divide a fee; provided, the patient has full knowledge of the division, and, provided, that the division is made in proportion to the services performed and responsibility assumed by each.

(15) A finding by the Medical Disciplinary Board that the registrant after having his or her license placed on probationary status or subjected to conditions or restrictions violated the terms of the probation or failed to comply with such terms or conditions.

(16) Abandonment of a patient.

(17) Prescribing, selling, administering, distributing, giving or self-administering any drug classified as a controlled substance (designated product) or narcotic for other than medically accepted therapeutic purposes.

(18) Promotion of the sale of drugs, devices, appliances or

goods provided for a patient in such manner as to exploit the patient for financial gain of the physician.

(19) Offering, undertaking or agreeing to cure or treat disease by a secret method, procedure, treatment or medicine, or the treating, operating or prescribing for any human condition by a method, means or procedure which the licensee refuses to divulge upon demand of the Department.

(20) Immoral conduct in the commission of any act including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice.

(21) Wilfully making or filing false records or reports in his or her practice as a physician, including, but not limited to, false records to support claims against the medical assistance program of the Department of Public Aid under the Illinois Public Aid Code.

(22) Wilful omission to file or record, or wilfully impeding the filing or recording, or inducing another person to omit to file or record, medical reports as required by law, or wilfully failing to report an instance of suspected abuse or neglect as required by law.

(23) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(24) Solicitation of professional patronage by any corporation, agents or persons, or profiting from those representing themselves to be agents of the licensee.

(25) Gross and wilful and continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered, including, but not limited to, filing such false statements for collection of monies for services not rendered from the medical assistance program of the Department of Public Aid under the Illinois Public Aid Code.

(26) A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under this Act.

(27) Mental illness or disability which results in the inability to practice under this Act with reasonable judgment, skill or safety.

(28) Physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill which results in a physician's inability to practice under this Act with reasonable judgment, skill or safety.

(29) Cheating on or attempt to subvert the licensing examinations administered under this Act.

(30) Wilfully or negligently violating the confidentiality between physician and patient except as required by law.

(31) The use of any false, fraudulent, or deceptive statement in any document connected with practice under this Act.

(32) Aiding and abetting an individual not licensed under this Act in the practice of a profession licensed under this Act.

(33) Violating state or federal laws or regulations relating to controlled substances.

(34) Failure to report to the Department any adverse final action taken against them by another licensing jurisdiction (any other state or any territory of the United States or any foreign state or country), by any peer review body, by any health care

institution, by any professional society or association related to practice under this Act, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(35) Failure to report to the Department surrender of a license or authorization to practice as a medical doctor, a doctor of osteopathy, a doctor of osteopathic medicine, or doctor of chiropractic in another state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society, while under disciplinary investigation by any of those authorities or bodies, for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(36) Failure to report to the Department any adverse judgment, settlement, or award arising from a liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(37) Failure to transfer copies of medical records as required by law.

(38) Failure to furnish the Department, its investigators or representatives, relevant information, legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator.

(39) Violating the Health Care Worker Self-Referral Act.

(40) Willful failure to provide notice when notice is required under the Parental Notice of Abortion Act of 2001. ~~Willful failure to provide notice when notice is required under the Parental Notice of Abortion Act of 1995~~.

(41) Failure to establish and maintain records of patient care and treatment as required by this law.

(42) Entering into an excessive number of written collaborative agreements with licensed advanced practice nurses resulting in an inability to adequately collaborate and provide medical direction.

(43) Repeated failure to adequately collaborate with or provide medical direction to a licensed advanced practice nurse.

All proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 3 years next after receipt by the Department of a complaint alleging the commission of or notice of the conviction order for any of the acts described herein. Except for the grounds numbered (8), (9) and (29), no action shall be commenced more than 5 years after the date of the incident or act alleged to have violated this Section. In the event of the settlement of any claim or cause of action in favor of the claimant or the reduction to final judgment of any civil action in favor of the plaintiff, such claim, cause of action or civil action being grounded on the allegation that a person licensed under this Act was negligent in providing care, the Department shall have an additional period of one year from the date of notification to the Department under Section 23 of this Act of such settlement or final judgment in which to investigate and commence formal disciplinary proceedings under Section 36 of this Act, except as otherwise provided by law. The time during which the holder of the license was outside the State of Illinois shall not be included within any period of time limiting the commencement of disciplinary action by the Department.

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a

person in need of mental treatment operates as a suspension of that license. That person may resume their practice only upon the entry of a Departmental order based upon a finding by the Medical Disciplinary Board that they have been determined to be recovered from mental illness by the court and upon the Disciplinary Board's recommendation that they be permitted to resume their practice.

The Department may refuse to issue or take disciplinary action concerning the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied as determined by the Illinois Department of Revenue.

The Department, upon the recommendation of the Disciplinary Board, shall adopt rules which set forth standards to be used in determining:

(a) when a person will be deemed sufficiently rehabilitated to warrant the public trust;

(b) what constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(c) what constitutes immoral conduct in the commission of any act, including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice; and

(d) what constitutes gross negligence in the practice of medicine.

However, no such rule shall be admissible into evidence in any civil action except for review of a licensing or other disciplinary action under this Act.

In enforcing this Section, the Medical Disciplinary Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure or a permit pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Disciplinary Board. The Medical Disciplinary Board or the Department may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communication between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Disciplinary Board finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause. If the Disciplinary Board finds a physician unable to practice because of the reasons set forth in this Section, the Disciplinary Board shall require such physician to submit to care, counseling, or treatment by physicians approved or designated by the Disciplinary Board, as a condition for continued, reinstated, or renewed licensure to practice. Any physician, whose license was granted pursuant to Sections 9, 17, or 19 of this Act, or, continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions, or to complete a required program of care, counseling, or treatment, as determined by the Chief Medical Coordinator or Deputy Medical Coordinators, shall

be referred to the Director for a determination as to whether the licensee shall have their license suspended immediately, pending a hearing by the Disciplinary Board. In instances in which the Director immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Disciplinary Board within 15 days after such suspension and completed without appreciable delay. The Disciplinary Board shall have the authority to review the subject physician's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Disciplinary Board that they can resume practice in compliance with acceptable and prevailing standards under the provisions of their license.

The Department may promulgate rules for the imposition of fines in disciplinary cases, not to exceed $5,000 for each violation of this Act. Fines may be imposed in conjunction with other forms of disciplinary action, but shall not be the exclusive disposition of any disciplinary action arising out of conduct resulting in death or injury to a patient. Any funds collected from such fines shall be deposited in the Medical Disciplinary Fund.

(B) The Department shall revoke the license or visiting permit of any person issued under this Act to practice medicine or to treat human ailments without the use of drugs and without operative surgery, who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act, or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or visiting permit is revoked under this subsection B of Section 22 of this Act shall be prohibited from practicing medicine or treating human ailments without the use of drugs and without operative surgery.

(C) The Medical Disciplinary Board shall recommend to the Department civil penalties and any other appropriate discipline in disciplinary cases when the Board finds that a physician willfully performed an abortion with actual knowledge that the person upon whom the abortion has been performed is a minor or an incompetent person without notice as required under the Parental Notice of Abortion Act of 2001. Upon the Board's recommendation, the Department shall impose, for the first violation, a civil penalty of $1,000 and for a second or subsequent violation, a civil penalty of $5,000. ~~The Medical Disciplinary Board shall recommend to the Department civil penalties and any other appropriate discipline in disciplinary cases when the Board finds that a physician willfully performed an abortion with actual knowledge that the person upon whom the abortion has been performed is a minor or an incompetent person without notice as required under the Parental Notice of Abortion Act of 1995. Upon the Board's recommendation, the Department shall impose, for the first violation, a civil penalty of $1,000 and for a second or subsequent violation, a civil penalty of $5,000.~~

(Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

(225 ILCS 60/23) (from Ch. 111, par. 4400-23)

Sec. 23. Reports relating to professional conduct and capacity.

(A) Entities required to report.

(1) Health care institutions. The chief administrator or executive officer of any health care institution licensed by the Illinois Department of Public Health shall report to the

Disciplinary Board when any person's clinical privileges are terminated or are restricted based on a final determination, in accordance with that institution's by-laws or rules and regulations, that a person has either committed an act or acts which may directly threaten patient care, and not of an administrative nature, or that a person may be mentally or physically disabled in such a manner as to endanger patients under that person's care. Such officer also shall report if a person accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon conduct related directly to patient care and not of an administrative nature, or in lieu of formal action seeking to determine whether a person may be mentally or physically disabled in such a manner as to endanger patients under that person's care. The Medical Disciplinary Board shall, by rule, provide for the reporting to it of all instances in which a person, licensed under this Act, who is impaired by reason of age, drug or alcohol abuse or physical or mental impairment, is under supervision and, where appropriate, is in a program of rehabilitation. Such reports shall be strictly confidential and may be reviewed and considered only by the members of the Disciplinary Board, or by authorized staff as provided by rules of the Disciplinary Board. Provisions shall be made for the periodic report of the status of any such person not less than twice annually in order that the Disciplinary Board shall have current information upon which to determine the status of any such person. Such initial and periodic reports of impaired physicians shall not be considered records within the meaning of The State Records Act and shall be disposed of, following a determination by the Disciplinary Board that such reports are no longer required, in a manner and at such time as the Disciplinary Board shall determine by rule. The filing of such reports shall be construed as the filing of a report for purposes of subsection (C) of this Section.

(2) Professional associations. The President or chief executive officer of any association or society, of persons licensed under this Act, operating within this State shall report to the Disciplinary Board when the association or society renders a final determination that a person has committed unprofessional conduct related directly to patient care or that a person may be mentally or physically disabled in such a manner as to endanger patients under that person's care.

(3) Professional liability insurers. Every insurance company which offers policies of professional liability insurance to persons licensed under this Act, or any other entity which seeks to indemnify the professional liability of a person licensed under this Act, shall report to the Disciplinary Board the settlement of any claim or cause of action, or final judgment rendered in any cause of action, which alleged negligence in the furnishing of medical care by such licensed person when such settlement or final judgment is in favor of the plaintiff.

(4) State's Attorneys. The State's Attorney of each county shall report to the Disciplinary Board all instances in which a person licensed under this Act is convicted or otherwise found guilty of the commission of any felony. The State's Attorney of each county may report to the Disciplinary Board through a verified complaint any instance in which the State's Attorney believes that a physician has willfully violated the notice requirements of the Parental Notice of Abortion Act of 2001. ~~The State's Attorney of each county may report to the Disciplinary Board through a verified complaint any instance in which the~~

~~State's Attorney believes that a physician has willfully violated the notice requirements of the Parental Notice of Abortion Act of 1995.~~

(5) State agencies. All agencies, boards, commissions, departments, or other instrumentalities of the government of the State of Illinois shall report to the Disciplinary Board any instance arising in connection with the operations of such agency, including the administration of any law by such agency, in which a person licensed under this Act has either committed an act or acts which may be a violation of this Act or which may constitute unprofessional conduct related directly to patient care or which indicates that a person licensed under this Act may be mentally or physically disabled in such a manner as to endanger patients under that person's care.

(B) Mandatory reporting. All reports required by items (34), (35), and (36) of subsection (A) of Section 22 and by Section 23 shall be submitted to the Disciplinary Board in a timely fashion. The reports shall be filed in writing within 60 days after a determination that a report is required under this Act. All reports shall contain the following information:

(1) The name, address and telephone number of the person making the report.

(2) The name, address and telephone number of the person who is the subject of the report.

(3) The name or other means of identification of any patient or patients whose treatment is a subject of the report, provided, however, no medical records may be revealed without the written consent of the patient or patients.

(4) A brief description of the facts which gave rise to the issuance of the report, including the dates of any occurrences deemed to necessitate the filing of the report.

(5) If court action is involved, the identity of the court in which the action is filed, along with the docket number and date of filing of the action.

(6) Any further pertinent information which the reporting party deems to be an aid in the evaluation of the report.

The Department shall have the right to inform patients of the right to provide written consent for the Department to obtain copies of hospital and medical records. The Disciplinary Board or Department may exercise the power under Section 38 of this Act to subpoena copies of hospital or medical records in mandatory report cases alleging death or permanent bodily injury when consent to obtain records is not provided by a patient or legal representative. Appropriate rules shall be adopted by the Department with the approval of the Disciplinary Board.

When the Department has received written reports concerning incidents required to be reported in items (34), (35), and (36) of subsection (A) of Section 22, the licensee's failure to report the incident to the Department under those items shall not be the sole grounds for disciplinary action.

Nothing contained in this Section shall act to in any way, waive or modify the confidentiality of medical reports and committee reports to the extent provided by law. Any information reported or disclosed shall be kept for the confidential use of the Disciplinary Board, the Medical Coordinators, the Disciplinary Board's attorneys, the medical investigative staff, and authorized clerical staff, as provided in this Act, and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure.

(C) Immunity from prosecution. Any individual or organization

acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Disciplinary Board, or assisting in the investigation or preparation of such information, or by participating in proceedings of the Disciplinary Board, or by serving as a member of the Disciplinary Board, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(D) Indemnification. Members of the Disciplinary Board, the Medical Coordinators, the Disciplinary Board's attorneys, the medical investigative staff, physicians retained under contract to assist and advise the medical coordinators in the investigation, and authorized clerical staff shall be indemnified by the State for any actions occurring within the scope of services on the Disciplinary Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

Should the Attorney General decline representation, the member shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were wilful and wanton.

The member must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Disciplinary Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent the member.

(E) Deliberations of Disciplinary Board. Upon the receipt of any report called for by this Act, other than those reports of impaired persons licensed under this Act required pursuant to the rules of the Disciplinary Board, the Disciplinary Board shall notify in writing, by certified mail, the person who is the subject of the report. Such notification shall be made within 30 days of receipt by the Disciplinary Board of the report.

The notification shall include a written notice setting forth the person's right to examine the report. Included in such notification shall be the address at which the file is maintained, the name of the custodian of the reports, and the telephone number at which the custodian may be reached. The person who is the subject of the report shall submit a written statement responding, clarifying, adding to, or proposing the amending of the report previously filed. The statement shall become a permanent part of the file and must be received by the Disciplinary Board no more than 60 days after the date on which the person was notified by the Disciplinary Board of the existence of the original report.

The Disciplinary Board shall review all reports received by it, together with any supporting information and responding statements submitted by persons who are the subject of reports. The review by the Disciplinary Board shall be in a timely manner but in no event, shall the Disciplinary Board's initial review of the material contained in each disciplinary file be less than 61 days nor more than 180 days after the receipt of the initial report by the Disciplinary Board.

When the Disciplinary Board makes its initial review of the materials contained within its disciplinary files, the Disciplinary Board shall, in writing, make a determination as to whether there are

sufficient facts to warrant further investigation or action. Failure to make such determination within the time provided shall be deemed to be a determination that there are not sufficient facts to warrant further investigation or action.

Should the Disciplinary Board find that there are not sufficient facts to warrant further investigation, or action, the report shall be accepted for filing and the matter shall be deemed closed and so reported to the Director. The Director shall then have 30 days to accept the Medical Disciplinary Board's decision or request further investigation. The Director shall inform the Board in writing of the decision to request further investigation, including the specific reasons for the decision. The individual or entity filing the original report or complaint and the person who is the subject of the report or complaint shall be notified in writing by the Director of any final action on their report or complaint.

(F) Summary reports. The Disciplinary Board shall prepare, on a timely basis, but in no event less than one every other month, a summary report of final actions taken upon disciplinary files maintained by the Disciplinary Board. The summary reports shall be sent by the Disciplinary Board to every health care facility licensed by the Illinois Department of Public Health, every professional association and society of persons licensed under this Act functioning on a statewide basis in this State, the American Medical Association, the American Osteopathic Association, the American Chiropractic Association, all insurers providing professional liability insurance to persons licensed under this Act in the State of Illinois, the Federation of State Medical Licensing Boards, and the Illinois Pharmacists Association.

(G) Any violation of this Section shall be a Class A misdemeanor.

(H) If any such person violates the provisions of this Section an action may be brought in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, for an order enjoining such violation or for an order enforcing compliance with this Section. Upon filing of a verified petition in such court, the court may issue a temporary restraining order without notice or bond and may preliminarily or permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this paragraph shall be in addition to, and not in lieu of, all other remedies and penalties provided for by this Section.

(Source: P.A. 89-18, eff. 6-1-95; 89-702, eff. 7-1-97; 90-699, eff. 1-1-99.)

(720 ILCS 515/Act rep.)

Section 95. The Illinois Abortion Parental Consent Act of 1977, which was repealed by Public Act 89-18, is again repealed.

(720 ILCS 520/Act rep.)

Section 96. The Parental Notice of Abortion Act of 1983, which was repealed by Public Act 89-18, is again repealed.

(750 ILCS 70/Act rep.)

Section 97. The Parental Notice of Abortion Act of 1995 is repealed.

Section 99. Effective Date. This Act takes effect upon becoming law.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Hendon, **House Bill No. 1911** was taken up,

read by title a second time and ordered to a third reading.

On motion of Senator Luechtefeld, **House Bill No. 1973** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Local Government, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 1973, on page 2 by deleting lines 7 through 34; and
on page 3 by deleting lines 1 through 23; and
on page 3 by replacing lines 24 and 25 with the following:
"(b) The township board may levy the taxes at a rate in excess of 0.125% but not in excess of"; and
on page 4 by replacing lines 4 and 5 with the following:
"from 0.125% to 0.40% of the value of all taxable property within the".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Bomke, **House Bill No. 1988** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Silverstein, **House Bill No. 2276** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Public Health and Welfare, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 2276 on page 1, line 26, after "branches", by inserting ", statewide organizations representing nursing homes,"; and
on page 3, line 2, by changing "Section 6.19" to "Sections 6.19 and 6.20"; and
on page 3, after line 14, by inserting the following:

"(210 ILCS 85/6.20 new)

Sec. 6.20. Use of restraints. Each hospital licensed under this Act must have a written policy to address the use of restraints and seclusion in the hospital. The Department shall establish, by rule, the provisions that the policy must include, which, to the extent practicable, should be consistent with the requirements for participation in the federal Medicare program. Each hospital policy shall include periodic review of the use of restraints or seclusion in the hospital.

In hospitals, restraints or seclusion may only be ordered by (i) a physician licensed to practice medicine in all its branches or (ii) a registered nurse with supervisory responsibilities as authorized by the medical staff. The medical staff of a hospital may adopt a policy specifying the requirements for the use of restraints or seclusion and identifying whether a registered nurse with supervisory responsibilities may order restraints or seclusion in the hospital when the patient's treating physician is not available.

Registered nurses authorized to order restraints or seclusion shall have appropriate training and experience as determined by medical staff policy. The treating physician shall be notified when restraints or seclusion are ordered by a registered nurse. Nothing in this Section requires that a medical staff authorize a registered nurse with supervisory responsibilities to order restraints or seclusion.".

[May 9, 2001]

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Dillard, **House Bill No. 2277** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Local Government, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 2277 by replacing everything after the enacting clause with the following:

"Section 5. The Local Government Debt Reform Act is amended by changing Sections 3, 9, 15, 16.5, and 17 and by adding Section 5.5 as follows:

(30 ILCS 350/3) (from Ch. 17, par. 6903)

Sec. 3. Definitions. In this Act words or terms shall have the following meanings unless the context or usage clearly indicates that another meaning is intended.

(a) "Alternate bonds" means bonds issued in lieu of revenue bonds or payable from a revenue source as provided in Section 15.

(b) "Applicable law" means any provision of law, including this Act, authorizing governmental units to issue bonds.

(c) "Backdoor referendum" means the submission of a public question to the voters of a governmental unit, initiated by a petition of voters, residents or property owners of such governmental unit, to determine whether an action by the governing body of such governmental unit shall be effective, adopted or rejected.

(d) "Bond" means any instrument evidencing the obligation to pay money authorized or issued by or on behalf of a governmental unit under applicable law, including without limitation, bonds, notes, installment or financing contracts, leases, certificates, tax anticipation warrants or notes, vouchers, and any other evidences of indebtedness.

(e) "Debt service" on bonds means the amount of principal, interest and premium, if any, when due either at stated maturity or upon mandatory redemption.

(f) "Enterprise revenues" means the revenues of a utility or revenue producing enterprise from which revenue bonds may be payable.

(g) "General obligation bonds" means bonds of a governmental unit for the payment of which the governmental unit is empowered to levy ad valorem property taxes upon all taxable property in a governmental unit without limitation as to rate or amount.

(h) "Governing body" means the legislative body, council, board, commission, trustees, or any other body, by whatever name it is known, having charge of the corporate affairs of a governmental unit.

(h-5) "Governmental revenue source" means a revenue source that is either (1) federal or State funds that the governmental unit has received in some amount during each of the 3 fiscal years preceding the issuance of alternate bonds or (2) revenues to be received from another governmental unit under an intergovernmental cooperation agreement.

(i) "Governmental unit" means a county, township, municipality, municipal corporation, unit of local government, school district, special district, public corporation, body corporate and politic, forest preserve district, fire protection district, conservation district, park district, sanitary district, and all other local governmental agencies, including any entity created by intergovernmental agreement among any of the foregoing governmental units, but does not include any office, officer, department, division, bureau, board, commission, university, or similar agency of

the State.

(j) "Ordinance" means an ordinance duly adopted by a governing body or, if appropriate under applicable law, a resolution so adopted.

(k) "Revenue bonds" means any bonds of a governmental unit other than general obligation bonds, but "revenue bonds" does include any debt authorized under Section 11-29.3-1 of the Illinois Municipal Code.

(l) "Revenue source" means a source of funds, other than enterprise revenues, received or available to be received by a governmental unit and available for any one or more of its corporate purposes.

(m) "Limited bonds" means bonds, excluding leases, notes, installment or financing contracts, certificates, tax anticipation warrants or notes, vouchers, and any other evidences of indebtedness, issued under Section 15.01 of this Act.

(Source: P.A. 89-385, eff. 8-18-95; 89-658, eff. 1-1-97.)

(30 ILCS 350/5.5 new)

Sec. 5.5. Notices.

(a) Whenever applicable law requires notice in connection with the issuance of bonds, the notice shall be sufficient if the notice appears above the name or title of the person required to give the notice.

(b) Whenever applicable law requires any notice of a hearing or meeting held in connection with the issuance of bonds to be supplied to the members of the governing body or news media, such notice may be supplied by facsimile transmission (commonly referred to as fax) or electronic transmission (commonly referred to as e-mail).

(30 ILCS 350/9) (from Ch. 17, par. 6909)

Sec. 9. Provisions for interest. (a) The proceeds of bonds may be used to provide for the payment of interest upon such bonds for a period not to exceed the greater of 2 years or a period ending 6 months after the estimated date of completion of the acquisition and construction of the project or accomplishment of the purpose for which such bonds are issued.

(b) In addition it shall be lawful for the governing body of any governmental unit issuing bonds to appropriate money for the purpose of paying interest on such bonds during the period stated in subsection (a) of this Section. Such appropriation may be made in the ordinance authorizing such bonds and shall be fully effective upon the effective date of such ordinance without any further notice, publication or approval whatsoever.

(c) The governing body of any governmental unit may authorize the transfer of interest earned on any of the moneys of the governmental unit, including moneys set aside to pay debt service, into the fund of the governmental unit that is most in need of the interest. This subsection does not apply to any interest earned that has been earmarked or restricted by the governing body for a designated purpose. This subsection does not apply to any interest earned on any funds for the purpose of municipal retirement under the Illinois Pension Code and tort immunity under the Local Governmental and Governmental Employees Tort Immunity Act. Interest earned on those funds may be used only for the purposes authorized for the respective funds from which the interest earnings were derived.

(Source: P.A. 85-1419.)

(30 ILCS 350/15) (from Ch. 17, par. 6915)

Sec. 15. Double-barrelled bonds. Whenever revenue bonds have been authorized to be issued pursuant to applicable law or whenever there exists for a governmental unit a revenue source, the procedures set forth in this Section may be used by a governing body. General

obligation bonds may be issued in lieu of such revenue bonds as authorized, and general obligation bonds may be issued payable from any revenue source. Such general obligation bonds may be referred to as "alternate bonds". Alternate bonds may be issued without any referendum or backdoor referendum except as provided in this Section, upon the terms provided in Section 10 of this Act without reference to other provisions of law, but only upon the conditions provided in this Section. Alternate bonds shall not be regarded as or included in any computation of indebtedness for the purpose of any statutory provision or limitation except as expressly provided in this Section.

Such conditions are:

(a) Alternate bonds shall be issued for a lawful corporate purpose. If issued in lieu of revenue bonds, alternate bonds shall be issued for the purposes for which such revenue bonds shall have been authorized. If issued payable from a revenue source in the manner hereinafter provided, which revenue source is limited in its purposes or applications, then the alternate bonds shall be issued only for such limited purposes or applications. Alternate bonds may be issued payable from either enterprise revenues or revenue sources, or both.

(b) Alternate bonds shall be subject to backdoor referendum. The provisions of Section 5 of this Act shall apply to such backdoor referendum, together with the provisions hereof. The authorizing ordinance shall be published in a newspaper of general circulation in the governmental unit. Along with or as part of the authorizing ordinance, there shall be published a notice of (1) the specific number of voters required to sign a petition requesting that the issuance of the alternate bonds be submitted to referendum, (2) the time when such petition must be filed, (3) the date of the prospective referendum, and (4), with respect to authorizing ordinances adopted on or after January 1, 1991, a statement that identifies any revenue source that will be used to pay <u>debt service</u> ~~the principal of and interest~~ on the alternate bonds. The clerk or secretary of the governmental unit shall make a petition form available to anyone requesting one. If no petition is filed with the clerk or secretary within 30 days of publication of the authorizing ordinance and notice, the alternate bonds shall be authorized to be issued. But if within this 30 days period, a petition is filed with such clerk or secretary signed by electors numbering the greater of (i) 7.5% of the registered voters in the governmental unit or (ii) 200 of those registered voters or 15% of those registered voters, whichever is less, asking that the issuance of such alternate bonds be submitted to referendum, the clerk or secretary shall certify such question for submission at an election held in accordance with the general election law. The question on the ballot shall include a statement of any revenue source that will be used to pay <u>debt service</u> ~~the principal of and interest~~ on the alternate bonds. The alternate bonds shall be authorized to be issued if a majority of the votes cast on the question at such election are in favor thereof provided that notice of the bond referendum, if held before July 1, 1999, has been given in accordance with the provisions of Section 12-5 of the Election Code in effect at the time of the bond referendum, at least 10 and not more than 45 days before the date of the election, notwithstanding the time for publication otherwise imposed by Section 12-5. Notices required in connection with the submission of public questions on or after July 1, 1999 shall be as set forth in Section 12-5 of the Election Code. Backdoor referendum proceedings for bonds and alternate bonds to be issued in lieu of such bonds may be conducted at the same time.

(c) To the extent payable from enterprise revenues, such

revenues shall have been determined by the governing body to be sufficient to provide for or pay in each year to final maturity of such alternate bonds all of the following: (1) costs of operation and maintenance of the utility or enterprise, but not including depreciation, (2) debt service on all outstanding revenue bonds payable from such enterprise revenues, (3) all amounts required to meet any fund or account requirements with respect to such outstanding revenue bonds, (4) other contractual or tort liability obligations, if any, payable from such enterprise revenues, and (5) in each year, an amount not less than 1.25 times debt service of all (i) alternate bonds payable from such enterprise revenues previously issued and outstanding and (ii) alternate bonds proposed to be issued. To the extent payable from one or more revenue sources, such sources shall have been determined by the governing body to provide in each year, an amount not less than 1.25 times debt service of all alternate bonds payable from such revenue sources previously issued and outstanding and alternate bonds proposed to be issued. The 1.25 figure in the preceding sentence shall be reduced to 1.10 if the revenue source is a governmental revenue source. The conditions enumerated in this subsection (c) need not be met for that amount of debt service provided for by the setting aside of proceeds of bonds or other moneys at the time of the delivery of such bonds.

(c-1) In the case of alternate bonds issued as variable rate bonds (including refunding bonds), debt service shall be projected based on the rate for the most recent date shown in the 20 G.O. Bond Index of average municipal bond yields as published in the most recent edition of The Bond Buyer published in New York, New York (or any successor publication or index, or if such publication or index is no longer published, then any index of long-term municipal tax-exempt bond yields selected by the governmental unit), as of the date of determination referred to in subsection (c) of this Section. Any interest or fees that may be payable to the provider of a letter of credit, line of credit, surety bond, bond insurance, or other credit enhancement relating to such alternate bonds and any fees that may be payable to any remarketing agent need not be taken into account for purposes of such projection. If the governmental unit enters into an agreement in connection with such alternate bonds at the time of issuance thereof pursuant to which the governmental unit agrees for a specified period of time to pay an amount calculated at an agreed-upon rate or index based on a notional amount and the other party agrees to pay the governmental unit an amount calculated at an agreed-upon rate or index based on such notional amount, interest shall be projected for such specified period of time on the basis of the agreed-upon rate payable by the governmental unit.

(d) The determination of the sufficiency of enterprise revenues or a revenue source, as applicable, shall be supported by reference to the most recent audit of the governmental unit, which shall be for a fiscal year ending not earlier than 18 months previous to the time of issuance of the alternate bonds. If such audit does not adequately show such enterprise revenues or revenue source, as applicable, or if such enterprise revenues or revenue source, as applicable, are shown to be insufficient, then the determination of sufficiency shall be supported by the report of an independent accountant or feasibility analyst, the latter having a national reputation for expertise in such matters, demonstrating the sufficiency of such revenues and explaining, if appropriate, by what means the revenues will be greater than as shown in the audit. Whenever such sufficiency is demonstrated by reference to a schedule of higher rates or charges for enterprise revenues or a higher tax imposition for a revenue source, such higher rates, charges or taxes

shall have been properly imposed by an ordinance adopted prior to the time of delivery of alternate bonds. The reference to and acceptance of an audit or report, as the case may be, and the determination of the governing body as to sufficiency of enterprise revenues or a revenue source shall be conclusive evidence that the conditions of this Section have been met and that the alternate bonds are valid.

(e) The enterprise revenues or revenue source, as applicable, shall be in fact pledged to the payment of the alternate bonds; and the governing body shall covenant, to the extent it is empowered to do so, to provide for, collect and apply such enterprise revenues or revenue source, as applicable, to the payment of the alternate bonds and the provision of not less than an additional .25 (or .10 for governmental revenue sources) times debt service. The pledge and establishment of rates or charges for enterprise revenues, or the imposition of taxes in a given rate or amount, as provided in this Section for alternate bonds, shall constitute a continuing obligation of the governmental unit with respect to such establishment or imposition and a continuing appropriation of the amounts received. All covenants relating to alternate bonds and the conditions and obligations imposed by this Section are enforceable by any bondholder of alternate bonds affected, any taxpayer of the governmental unit, and the People of the State of Illinois acting through the Attorney General or any designee, and in the event that any such action results in an order finding that the governmental unit has not properly set rates or charges or imposed taxes to the extent it is empowered to do so or collected and applied enterprise revenues or any revenue source, as applicable, as required by this Act, the plaintiff in any such action shall be awarded reasonable attorney's fees. The intent is that such enterprise revenues or revenue source, as applicable, shall be sufficient and shall be applied to the payment of debt service on such alternate bonds so that taxes need not be levied, or if levied need not be extended, for such payment. Nothing in this Section shall inhibit or restrict the authority of a governing body to determine the lien priority of any bonds, including alternate bonds, which may be issued with respect to any enterprise revenues or revenue source.

In the event that alternate bonds shall have been issued and taxes, other than a designated revenue source, shall have been extended pursuant to the general obligation, full faith and credit promise supporting such alternate bonds, then the amount of such alternate bonds then outstanding shall be included in the computation of indebtedness of the governmental unit for purposes of all statutory provisions or limitations until such time as an audit of the governmental unit shall show that the alternate bonds have been paid from the enterprise revenues or revenue source, as applicable, pledged thereto for a complete fiscal year.

Alternate bonds may be issued to refund or advance refund alternate bonds without meeting any of the conditions set forth in this Section, except that the term of the refunding bonds shall not be longer than the term of the refunded bonds and that the debt service payable in any year on the refunding bonds shall not exceed the debt service payable in such year on the refunded bonds.

Once issued, alternate bonds shall be and forever remain until paid or defeased the general obligation of the governmental unit, for the payment of which its full faith and credit are pledged, and shall be payable from the levy of taxes as is provided in this Act for general obligation bonds.

The changes made by this amendatory Act of 1990 do not affect the validity of bonds authorized before September 1, 1990.

(Source: P.A. 90-812, eff. 1-26-99; 91-57, eff. 6-30-99; 91-493, eff.

8-13-99; 91-868, eff. 6-22-00.)

(30 ILCS 350/16.5)

Sec. 16.5. Proposition for bonds. For all elections held after July 1, 2000, the form of a proposition to authorize the issuance of bonds pursuant to either a referendum or backdoor referendum may be as set forth in this Section as an alternative to the form of proposition as otherwise set forth by applicable law. The proposition authorized by this Section shall be in substantially the following form:

Shall (name of governmental unit) (state purpose for the bond issue) and issue its bonds to the amount of $ (state amount) for the purpose of paying the costs thereof?

If a school district expects to receive a school construction grant from the State of Illinois ~~has received a grant entitlement from the Illinois State Board of Education~~ pursuant to the School Construction Law for a school construction project to be financed in part with proceeds of a bond authorized by referendum, then the form of proposition may at the option of the school district additionally contain substantially the following language:

(Name of school district) expects to receive a school construction grant from the State of Illinois ~~has received a grant entitlement~~ in the amount of $ (state amount) ~~from the Illinois State Board of Education~~ pursuant to the School Construction Law for the school construction project to be financed in part with proceeds of the bonds, based on (i) a grant entitlement from the State Board of Education and (ii) current recognized project costs determined by the Capital Development Board.

(Source: P.A. 91-868, eff. 6-22-00.)

(30 ILCS 350/17) (from Ch. 17, par. 6917)

Sec. 17. Leases and installment contracts.

(a) Interest not debt; debt on leases and installment contracts. Interest on bonds shall not be included in any computation of indebtedness of a governmental unit for the purpose of any statutory provision or limitation. For bonds consisting of leases and installment or financing contracts, (1) that portion of payments made by a governmental unit under the terms of a bond designated as interest in the bond or the ordinance authorizing such bond shall be treated as interest for purposes of this Section (2) where portions of payments due under the terms of a bond have not been designated as interest in the bond or the ordinance authorizing such bond, and all or a portion of such payments is to be used for the payment of principal of and interest on other bonds of the governmental unit or bonds issued by another unit of local government, such as a public building commission, the payments equal to interest due on such corresponding bonds shall be treated as interest for purposes of this Section and (3) where portions of payments due under the terms of a bond have not been designated as interest in the bond or ordinance authorizing such bond and no portion of any such payment is to be used for the payment of principal of and interest on other bonds of the governmental unit or another unit of local government, a portion of each payment due under the terms of such bond shall be treated as interest for purposes of this Section; such portion shall be equal in amount to the interest that would have been paid on a notional obligation of the governmental unit (bearing interest at the highest rate permitted by law for bonds of the governmental unit at the time the bond was issued or, if no such limit existed, 12%) on which the payments of principal and interest were due at the same times and in the same amounts as payments are due under the terms of the bonds. The rule set forth in this Section shall be applicable to all

interest no matter when earned or accrued or at what interval paid, and whether or not a bond bears interest which compounds at certain intervals. For purposes of bonds sold at amounts less than 95% of their stated value at maturity, interest for purposes of this Section includes the difference between the amount set forth on the face of the bond as the original principal amount and the bond's stated value at maturity.

This subsection may be made applicable to bonds issued prior to the effective date of this Act by passage of an ordinance to such effect by the governing body of a governmental unit.

(b) Purchase or lease of property. The governing body of each governmental unit may purchase or lease either real or personal property, including investments, investment agreements, or investment services, through agreements that provide that the consideration for the purchase or lease may be paid through installments made at stated intervals for a period of no more than 20 years or another period of time authorized by law, whichever is greater; provided, however, that investments, investment agreements, or investment services purchased in connection with a bond issue may be paid through installments made at stated intervals for a period of time not in excess of the maximum term of such bond issue. Each governmental unit may issue certificates evidencing the indebtedness incurred under the lease or agreement. The governing body may provide for the treasurer, comptroller, finance officer, or other officer of the governing body charged with financial administration to act as counter-party to any such lease or agreement, as nominee lessor or seller. When the lease or agreement is executed by the officer of the governmental unit authorized by the governing body to bind the governmental unit thereon by the execution thereof and is filed with and executed by the nominee lessor or seller, the lease or agreement shall be sufficiently executed so as to permit the governmental unit to issue certificates evidencing the indebtedness incurred under the lease or agreement. The certificates shall be valid whether or not an appropriation with respect thereto is included in any annual or supplemental budget adopted by the governmental unit. From time to time, as the governing body executes contracts for the purpose of acquiring and constructing the services or real or personal property that is a part of the subject of the lease or agreement, including financial, legal, architectural, and engineering services related to the lease or agreement, the governing body shall order the contracts filed with its nominee officer, and that officer shall identify the contracts to the lease or agreement; that identification shall permit the payment of the contract from the proceeds of the certificates; and the nominee officer shall duly apply or cause to be applied proceeds of the certificates to the payment of the contracts. The governing body of each governmental unit may sell, lease, convey, and reacquire either real or personal property, or any interest in real or personal property, upon any terms and conditions and in any manner, as the governing body shall determine, if the governmental unit will lease, acquire by purchase agreement, or otherwise reacquire the property, as authorized by this subsection or any other applicable law.

All indebtedness incurred under this subsection, when aggregated with the existing indebtedness of the governmental unit, may not exceed the debt limits provided by applicable law.

(Source: P.A. 91-493, eff. 8-13-99; 91-868, eff. 6-22-00.)

Section 99. Effective date. This Act takes effect upon becoming law.".

There being no further amendments, the bill, as amended, was

ordered to a third reading.

On motion of Senator Burzynski, **House Bill No. 2492** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Public Health and Welfare, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 2492, on page 1, after line 3, by inserting the following:

"Section 5. The Hospital Licensing Act is amended by adding Section 6.19 as follows:

(210 ILCS 5/6.19 new)

Sec. 6.19. Use of restraints. Each hospital licensed under this Act must have a written policy to address the use of restraints and seclusion in the hospital. The Department shall establish, by rule, the provisions that the policy must include, which, to the extent practicable, should be consistent with the requirements for participation in the federal Medicare program. Each hospital policy shall include periodic review of the use of restraints or seclusion in the hospital.

In hospitals, restraints or seclusion may only be ordered by (1) a physician licensed to practice medicine in all its branches, or (2) a registered nurse with supervisory responsibilities as authorized by the medical staff. The medical staff of a hospital may adopt a policy specifying the requirements for the use of restraints or seclusion and identifying whether a registered nurse with supervisory responsibilities may order restraints or seclusion in the hospital when the patient's treating physician is not available.

Registered nurses authorized to order restraints or seclusion shall have appropriate training and experience as determined by medical staff policy. The treating physician shall be notified when restraints or seclusion are ordered by a registered nurse. Nothing in this Section requires that a medical staff authorize a registered nurse with supervisory responsibilities to order restraints or seclusion."; and

on page 1, line 4, by replacing "Section 5" with "Section 10".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Luechtefeld, **House Bill No. 2528** having been printed, was taken up and read by title a second time.

Senator Luechtefeld offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 2528, on page 2, on line 26, by replacing "trespass" with "trespass or fish"; and

on page 2, line 28, after "operations", by inserting the following:

", or within a 200 foot buffer zone surrounding cages or netpens that are clearly delineated by buoys of a posted aquatic life farm,"

The motion prevailed and the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Philip, **House Bill No. 2905** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Philip, **House Bill No. 2911** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Philip, **House Bill No. 2914** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Philip, **House Bill No. 2917** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Philip, **House Bill No. 2920** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Geo-Karis, **House Bill No. 3002** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Syverson, **House Bill No. 3003** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Public Health and Welfare, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 3003 as follows:
on page 5, by replacing line 13 with the following:
"(h) This Section is repealed on January 1, 2004 2002."; and
on page 6, by replacing line 11 with the following:
"This Section is repealed on January 1, 2004 2002."; and
on page 6, by replacing line 33 with the following:
"This Section is repealed on January 1, 2004 2002."; and
on page 7, by replacing line 14 with the following:
"This Section is repealed on January 1, 2004 2002."; and
on page 8, by replacing line 4 with the following:
"This Section is repealed on January 1, 2004 2002."; and
on page 8, by replacing line 26 with the following:
"This Section is repealed on January 1, 2004 2002."; and
on page 9, by replacing line 11 with the following:
"This Section is repealed on January 1, 2004 2002.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Rauschenberger, **House Bill No. 3014** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 3014, by replacing the title with the following:
"AN ACT concerning radioactive materials."; and
before Section 5, by inserting the following:
"Section 3. The Radiation Protection Act of 1990 is amended by changing Section 3 and by adding Section 49 as follows:
(420 ILCS 40/3) (from Ch. 111 1/2, par. 210-3)
(Section scheduled to be repealed on January 1, 2011)
Sec. 3. Purpose. It is the purpose of this Act to effectuate the policies set forth in Section 2 by providing for:
(1) a program of effective regulation of radiation sources for the protection of human health, welfare and safety;
(2) a program to promote an orderly regulatory pattern within the State, among the States and between the Federal Government and

the State and facilitate intergovernmental cooperation with respect to use and regulation of sources of ionizing radiation to the end that duplication of regulation may be minimized;

(3) a program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to by-product, source and special nuclear materials; ~~and~~

(4) a program to permit maximum utilization of sources of ionizing radiation consistent with the health and safety of the public; and~~.~~

(5) a cost-effective remediation that is protective of the public health of the sites designated as the Ottawa radiation sites on the National Priorities List under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

(Source: P.A. 86-1341.)

(420 ILCS 40/49 new)

Sec. 49. Remediation of Ottawa radiation sites. In order to accomplish a cost-effective remediation that is protective of the public health, the Department shall have the following powers regarding the sites designated as the Ottawa radiation sites on the National Priorities List under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended:

(1) to cooperate with and receive the assistance of other State agencies including, but not limited to, the Illinois Attorney General, the Department of Natural Resources, the Department of Transportation, and the Environmental Protection Agency;

(2) to enter into contracts; and

(3) to accept by gift, donation, or bequest and to purchase any interests in lands, buildings, grounds, and rights-of-way in, around, or adjacent to the Ottawa radiation sites and, upon completion of remediation, to transfer property to the Department of Natural Resources.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Hendon, **House Bill No. 3068** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Rauschenberger, **House Bill No. 3494** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Rauschenberger, **House Bill No. 3495** was taken up, read by title a second time and ordered to a third reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Noland, **House Bill No. 605** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 54; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jones, W.
Karpiel
Klemm
Lauzen
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Woolard
Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

[May 9, 2001]

On motion of Senator Lauzen, **House Bill No. 41** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 55; Nays 1.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, W.
Karpiel
Klemm
Lauzen
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Walsh, L.
Walsh, T.
Watson

[May 9, 2001]

Weaver
Welch
Woolard
Mr. President

The following voted in the negative:

Viverito

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).
Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Klemm, **House Bill No. 196** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.
And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 55; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, W.
Karpiel
Klemm
Lauzen
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
Parker
Peterson
Petka
Radogno

Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Woolard
Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Obama, **House Bill No. 313** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 56; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, W.
Karpiel
Klemm
Lauzen
Link
Luechtefeld
Madigan, L.
Madigan, R.

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Mahar
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Woolard
Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Bomke, **House Bill No. 508** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 56; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis

Halvorson
Hawkinson
Hendon
Jacobs
Jones, W.
Karpiel
Klemm
Lauzen
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Woolard
Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator W. Jones, **House Bill No. 509** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 56; Nays None.

The following voted in the affirmative:

Bomke

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Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, W.
Karpiel
Klemm
Lauzen
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Woolard
Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives

thereof.

On motion of Senator Myers, **House Bill No. 542** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

Senator Cullerton requested a ruling from the Chair as to whether **House Bill No. 542** preempts the powers of Home Rule Units in accordance with Article VII, Section 6, of the Constitution of the State of Illinois.

The Chair ruled that **House Bill No. 542** does not preempt the powers of Home Rule Units, therefore, a vote of thirty of the members elected will be required for its passage.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 48; Nays 4; Present 4.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Jacobs
Jones, W.
Karpiel
Klemm
Lauzen
Link
Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Peterson
Petka
Radogno
Rauschenberger
Roskam
Shadid
Shaw
Sieben
Smith
Sullivan
Syverson

[May 9, 2001]

Trotter
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Woolard
Mr. President

The following voted in the negative:

Cullerton
Molaro
Parker
Viverito

The following voted present:

DeLeo
Hendon
Ronen
Silverstein

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).
Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Sieben, **House Bill No. 544** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.
And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 56; Nays None.

The following voted in the affirmative:

Bomke
Bowles
Burzynski
Clayborne
Cronin
Cullerton
DeLeo
del Valle
Demuzio
Dillard
Donahue
Dudycz
Geo-Karis
Halvorson
Hawkinson
Hendon
Jacobs
Jones, W.
Karpiel
Klemm
Lauzen
Link

Luechtefeld
Madigan, L.
Madigan, R.
Mahar
Molaro
Munoz
Myers
Noland
Obama
O'Daniel
O'Malley
Parker
Peterson
Petka
Radogno
Rauschenberger
Ronen
Roskam
Shadid
Shaw
Sieben
Silverstein
Smith
Sullivan
Syverson
Trotter
Viverito
Walsh, L.
Walsh, T.
Watson
Weaver
Welch
Woolard
Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

LEGISLATIVE MEASURES FILED

The following floor amendments to the House Bills listed below have been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 1 to House Bill 888
Senate Amendment No. 2 to House Bill 1908
Senate Amendment No. 2 to House Bill 2161
Senate Amendment No. 1 to House Bill 2440

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 104

At the hour of 1:28 o'clock p.m., on motion of Senator Shadid, the Senate stood adjourned until Thursday, May 10, 2001 at 10:30 o'clock a.m.